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The Nation.

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EXCLUSIVE

THE IRANIAN SOLUTION

Ramsey Clark, former Attorney General of the United States, recently visited Iran with a delegation of nine other Americans. We forgo our usual cover editorial to bring you his report.

—The Editors

RAMSEY CLARK

The Iranian Majlis, or parliament, may take up the hostage issue in the next several weeks. The mood of the Iranian people will be the decisive factor in its decision if it does. If the people feel threatened or abused by the United States, they will oppose release of the hostages. If they sense some new respect for their rights, some easing of opposition and hostility to their hope for independence, some greater capacity for candor by the U.S. Government, they may be ready to accept release of the hostages. Many in Teheran believe this is possible. Many say there will be no trials.

It should be clear by now that the seizure of the U.S. Embassy was a happening. Federico Fellini could not stage such chaos. Perhaps, as they say, the students thought the U.S. Marines would shoot and martyr some of their own, thus radicalizing the nation into making greater efforts to purge U.S. influence. Whatever the immediate causes, the seizure, its duration and the consequences were unforeseeable.

From the beginning, nearly all Iranians knew that taking these hostages was wrong. Initially, virtually all the leadership sought their immediate release. The revolutionary council traveled to Qum several times to urge Ayatollah Ruhollah Khomeini to direct the students to turn the hostages over to the Government.

But a surprising chemistry set in. Holding the hostages became the best way for Iran to show

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FRED RODELL
Sidney Zion

TRASHING TEDDY
Ronnie Dugger

KISSINGER'S BANGLADESH SIDESHOW
Lawrence Lifschultz & Kai Bird

WOMEN, PORN AND THE FIRST
Wendy Kaminer

'DIARY OF THE CUBAN REVOLUTION'
Jose Yglesias

'WOE UNTO YOU, LAWYERS!'
Sanford Levinson

VICTIM CENSORSHIP

EXPURGATING THE FIRST AMENDMENT

ARYEH NEIER

To an advocate of freedom of speech, the most distressing phenomenon in a time when our cause is beleaguered is the frequency with which victims of oppression take up the call for censorship. We see Jews trying to censor the casting of Vanessa Redgrave as a concentration-camp inmate in a television film, gay activists trying to censor the filming of *Cruising*, Chinatown residents in San Francisco trying to censor the filming of new Charlie Chan movies, feminists trying to censor pornography, black and Hispanic residents of the South Bronx trying to censor the filming of *Fort Apache* and so on. While it is difficult to know to what extent these new censors represent the views of those in whose interests they purport to act, it seems likely that some enjoy considerable support.

This is distressing both because it shows free speech means little to those who should be its most vigorous partisans and because it shows that many activists in behalf of the oppressed in America today are bereft of a strategy for combating oppression. These days, it sometimes seems that the oppressed aggressively exercise their own First Amendment rights only when trying to interfere with the expression of those whom they see as exploiting their suffering.

These battles over censorship take place in a context that casts freedom of speech in a peculiar light. Those invoking the protection of the First Amendment are often wealthy movie makers. Their opponents, for the most part, are people of little means. As a consequence, the new censors portray the First Amendment as a shield for privilege and power. They, the new

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LETTERS.

A CANDIDATE SPEAKS

New York City

The tragedy is that George Vickers ["A Guide to the Sectarian Left, *The Nation*, May 17] is so largely correct. There are some factual corrections I'd make regarding his summary of the Socialist Party, but they are not substantial. Our membership is not largely Midwestern and middle-aged, though since, at 50, I have reached that "gray zone" of middle age, maybe I'm being defensive. I think we have broken new ground in nominating a Catholic nun, Sister Diane Drufenbrock, for Vice President, and in seriously urging the unilateral dismantling of all nuclear weapons. And I think it is worth noting that the Socialist Party is chaired by Frank Zeidler, Mayor of Milwaukee from 1948 to 1960—and our Presidential candidate in 1976.

But the tragedy is that while each group Vickers surveyed would have similar corrections and additions, the fact remains that the socialist movement (and particularly the relatively nonsectarian and democratic wing of that movement) *is* weak. And this is a tragedy because all recent history suggests that the economic problems of America, and the foreign policy failures of this country, cannot be resolved within the framework of capitalism. This is what Barry Commoner has not yet faced. It is what John Anderson will not face. I wish things were otherwise, that lesser solutions would solve our problems—solutions easy enough that our small numbers could cope with them. We are, in a sense, where we were at the beginning of the movement against the Vietnam War—searching for some solution other than unconditional withdrawal. It took time, and a rising body count, for us to face reality then. The Communist Party and the Socialist Party disagree on much—but we agree on the need to accept the reality that socialism will come as a result of a long-term struggle.

I am grateful to Vickers for helping guide me through the maze of new sects—even as a veteran of the left, he helped sort out groupings that I sometimes get confused.

David McReynolds
Socialist Party candidate for President

ALLEGES FALSIFICATION

New York City

Is it really possible to suppose that China's policy is so super-Machiavellian that it is trying to force Vietnam to stay in Cambodia so that the Vietnamese "will suffer more and more"? Contrary to the bare assertion of Anthony Barnett ["Cambodia at the Turning Point," *The Nation*, April 12] and the claims of Hanoi propagandists, Deng Xiaoping never said anything of the sort.

Vietnam took over Laos and invaded Cambodia in pursuit of its goal of an Indochina under its firm control. It can readily foil any outside pressures to stay there and suffer.

The situation in Southeast Asia is prickly and controversial enough without being burdened by falsifications.

Hugh Deane

CORRECTION

Because of errors in transmission, the parenthetical information on page 716 in Geraldine Alpert and Marsha Hurst's article "A Plague on Our Hospitals" [*The Nation*, June 14] was incorrect. The sentence should have read: (In 1965, $11 billion or 25 percent of the total of $43 billion in health-care expenditures represented those by government; by 1978, government's share of the cost had risen to $78 billion, or a 41 percent share of total health-care expenditures.)

BARNETT DENIES

London

"Liar, liar, your pants are on fire!" This is the gist of Hugh Deane's letter. Does it sound convincing or childish? My verbatim quote of Deng was taken from the *Far Eastern Economic Review* of December 21, 1979. The Chinese leader was rejecting Japanese Premier Masayoshi Ohira's plea for a Cambodian settlement. No "falsification" there, despite Deane's claim.

But as he knows so much about Chinese policy, could he answer two questions: (*1*) Why do Peking's maps show its border stretching so far south of Vietnam that China has "border" disputes with Malaysia and the Philippines? (*2*) Why didn't Peking support Hanoi's proposal of February 1978 for a demilitarized border between Vietnam and Cambodia with international supervision, to put an end to the fighting?

Anthony Barnett

EDITORIALS.

Iran

(Continued From Front Cover)

its defiance of the United States. There was no reason, no logic, no justice in this action. It was simply the most direct and convincing way to proclaim resistance. The Iranian people could say "no" to America by denying its demands for the return of the hostages. The rights of fifty-three innocent people were insignificant to them compared to the emotional need to manifest defiance.

The Iranian revolution was led by people prepared to resist to the death. Many died. Ayatollah Khomeini came to embody the spirit of the revolution because no other visible leader refused to compromise with the Shah so adamantly, so consistently, so effectively. He has lived a life of resistance to evil as he sees it.

From the moment the hostages were taken, President Jimmy Carter seemed to need to show the American people that he was strong, decisive, fully capable of dictating the terms for the release of the hostages. An inventory of his acts through the days and weeks and months since November shows consistent and growing reliance on power to have his way. But he does not have such power. This is what every terrorist knows.

With each of President Carter's belligerent acts, threats and refusals to negotiate—and this can be easily and fully

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documented if necessary—the Iranians became more intransigent. Their history and character compelled it. They will not be bullied now. They lost tens of thousands of their people getting the Shah off their backs. Each aggressive act by the United States hardened Iranian defiance. Each aggressive act imperiled the hostages and serves to prolong their confinement.

The military expedition that President Carter ordered violated international law and endangered the hope for peace. It was as "humanitarian" as attempted murder. It is unthinkable that a constitutional government could empower the Chief Executive to engage in worldwide police actions at his whim. He risked the lives of our hostages, their captors, their liberators, innocent Iranian bystanders; he also risked wider military action, Soviet intervention, world war. The expedition was apparently prepared to kill people in another nation, whoever got in the way. It is the rule of force and violence—terribly dangerous and absolutely lawless. It was dared only because Iran is weak. We will kill Cambodians to show our ruthless power, as we did in the *Mayagüez* affair, losing American lives as well. But we dared not strike the Soviet Union to release our U-2 pilot, Francis Gary Powers. There are American citizens held prisoner in scores of countries. We cannot [illegible] to smash them free by authoritarian [illegible]

who believe in law, human dignity and peace should protest.

In every hostage situation there is a tension between authorities and life. This is the meaning of the Attica prison massacre, in which police took thirty-nine lives, including those of ten hostages, to demonstrate the authority of the state. I was Attorney General when the first U.S. skyjacking of the 1960s took place. I was asked by the Federal Bureau of Investigation for authority to shoot the tires out on an airplane before it took off. I refused. No one was hurt. The whole thing was over in a few hours. The terrorists were arrested. Of course it could have been worse. But I chose life, and events were kind. As Abraham Lincoln "plainly confessed" in the Civil War, he did not control events, events controlled him. But he did not act to make things worse. He did not want the "drummer boy" executed. He saved lives with malice toward none and charity for all.

The mood in Iran is much better now. I am optimistic. The people are pained by the continuing hostage crisis, which they know is wrong and which is said to cost them $50 million a day. The mood can be improved even more before the Majlis meets if America has the vision, the courage and the compassion to act nobly under pressure. The stakes are enormous: fifty-three precious lives, the destabilization of [illegible] incredibly difficult revolution. (Thomas Jefferson wrote [illegible] Marquis de Lafayette as the French Revolution began

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that he must not expect to be carried from despotism to liberty on a feather pillow.) Even nuclear war could ensue. Behind destabilization of Iran stands the Soviet Union which, whatever its aspirations, is the power most likely to fill the vacuum. U.S. policy has driven China, beginning in 1949, Cuba in 1959, Vietnam in 1975, among others, toward the Soviet Union because they had little alternative.

We are just beginning the 1980s. They promise to be wild. We need a new face and the reassertion of the principles on which our country is founded, in democracy, in freedom, in justice. We need to understand that our policy toward Iran has violated every value we love. We supported dictatorship, tyranny, torture, brute force and absolute obedience to authority. Now we must see that such a policy is doomed to failure—thank God.

The United States should:

(*1*) Renounce intervention by all nations in the affairs of others as contrary to the fundamental human right of self-determination.

(*2*) Assure Iran and all countries that it supports the cause of international justice and law and assures all nations the right "to seek" to extradite wrongdoers in accordance with law and similarly "to seek" the recovery of stolen property. (This is the language of the declaration that the American delegation approved in Teheran, for which President Carter says we, or at least I, should be punished.)

(*3*) Enact a charter to control the Central Intelligence Agency by rule of law, assuring its accountability to the American people and prohibiting immoral conduct.

(*4*) Initiate a Congressional investigation to expose to the world the full truth about U.S. interventions in Iran so that we shall know the truth and the truth shall set us free.

(*5*) Express humane sorrow for the death of 70,000 persons, the imprisonment, torture and ruination under the Shah's brutal regime and honestly acknowledge the role our Government played and show that we value their lives equally with our own and understand that the temporary detention of fifty-three persons, however wrong and harmful, cannot be equated with what they have suffered. (The United States wrongfully detains thousands of poor men, mostly minorities, annually without finally prosecuting them, and few protest.)

(*6*) Stop harassing thousands of Iranian students, visitors and permanent residents in the United States because we are angry at Ayatollah Khomeini. It is every bit as irrational that we beat up on them as it is that a group of Iranians hold fifty-three U.S. hostages. The students here did nothing to hurt us, but we punished them severely. Their families at home are angered, and when their generation comes to leadership they will remember American justice rudely hustling them from their schools and homes and hopes.

(*7*) End all economic sanctions, which anger and weaken Iran. The sanctions are wrong and cannot work. They lead to trade with the Eastern bloc, subterfuge and corruption. They can hurt the United States more than Iran by alienating the Iranian people and endangering the entire region with its vital energy resources.

(*8*) Give thanks that throughout all the turbulence in Iran during the seventeen months since the Shah's last Prime Minister left and in a period when Americans have been assassinated, murdered and abused in many countries, not a single American has been killed or injured in Iran by Iranians. Those who died at Bas in the rescue mission were killed through acts of our own.

(*9*) Let all religious people pray humbly to their God throughout our nation that no harm will befall our hostages, that they will be reunited with their loved ones soon, that the Iranian people will find a new fulfillment of their own choice, freely and independently, and that humanity will find the goodness and strength and love to will peace on earth. If fifty million Americans gave such a prayer during the coming Sabbath days, the Iranians, a deeply religious people, would respond generously.

Let us have Lincoln's impossible "faith that right makes might and in that faith let us, to the end, dare to do our duty as we understand it."

Next Week
Donald Ranard on Korea's New Dictatorship

Cambodia Now

Today, after more than a year of large-scale international relief efforts in Cambodia, the Khmer people remain on the verge of extinction. The internal conflict rages on; starvation and disease continue to take their toll, and more than a million of the five million remaining Khmers have left their villages to go to food-distribution centers on the Thailand border and in Phnom Penh. To call attention to the plight of the Cambodians and to examine the causes of the current disaster, *The Nation* joined the Citizens Committee on Cambodia in sponsoring a public meeting on June 9 in New York City. Speakers at the meeting included Richard Holbrooke, Assistant Secretary of State for East Asian and Pacific Affairs; William Shawcross, journalist and author of *Sideshow*, and Don Luce, representative of Clergy and Laity Concerned. Dick Clark, former Senator from Iowa and former Coordinator for Refugee Affairs, moderated the meeting and directed questions to the speakers from the audience and from a panel that included Anthony Lewis of *The New York Times*, Frances FitzGerald of *The Nation*'s Editorial Board and other journalists and representatives of relief agencies. Several important points were made at the meeting.

§ First, the situation in Cambodia is scarcely less critical today than it was a year ago, even though the United Nations and private agencies have poured nearly $500 million into relief efforts—far more than was spent on Bangladesh and certainly a disproportionate amount in view of the desperate plight of refugees in Africa and other areas of the world.

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§ Even if the relief efforts continue on this scale, they will almost surely not be successful until there is an end to the conflict between the Vietnamese Army of occupation and the remnants of the Pol Pot forces along the Thai frontier and forces of the non-Communist warlords based in the refugee camps. The conflict is, however, now at a stalemate; there is no prospect that any one of these forces can eliminate the others. (An unfortunate side effect of Western food aid along the Thai border has been to sustain the Pol Pot brigands as a fighting force.)

§ While China, the Soviet Union, the United States and the Association of South East Asian Nations are all contributing to the humanitarian relief effort, they are also helping to prolong the conflict—and thus the suffering of the Khmer people. As Shawcross pointed out, all three superpowers derive certain benefits from the continuation of the conflict. Peking backs the Pol Pot guerrillas in order to keep the Vietnamese forces tied down in Cambodia and in order to bleed Vietnam economically. The Soviet Union backs Vietnam but has an interest in seeing the conflict continue so that Vietnam will remain dependent on Moscow and amenable to serving its strategic interests in Southeast Asia. The ASEAN countries are not unhappy with Vietnam's internal problems and with a conflict that prevents either of their larger neighbors from exerting a dominant influence over the region. The United States has a similar strategic interest, and it derives a considerable propaganda advantage from the conflict between the two large Communist powers and the security and logistical obstructions the Heng Samrin Government puts in the way of international relief efforts.

§ Yet, all of the parties to the conflict would have an interest in ending it if they could be assured of regional stability and an independent, neutral Government in Phnom Penh. In the first place, they all run the risk that fighting will explode into a wider war. Second, an independent and neutral Cambodia would insure the legitimate security interests of the Vietnamese and the Thais. It might also satisfy Peking, since any independent Cambodian Government would want strong ties with Peking as well as with the West. The United States has an interest in regional stability and in diminishing the huge flow of refugees into Thailand—and eventually into the United States. If a political settlement were accompanied by large-scale economic development aid to the three Indochinese countries and a normalization of Vietnamese relations with the West, the United States might expect not merely that the refugee flow would diminish but that Vietnam would be far less amenable to Soviet policy.

§ The United States cannot force a political settlement on the combatants but it can—ideally—play a far more positive role in seeking an international agreement. Several speakers suggested that as a first step the United States should refuse to vote for the seating of the Pol Pot regime at the next session of the U.N. General Assembly. The vote for Pol Pot in the credentials committee last year not only put the United States in an intolerable moral position vis-á-vis the Cambodian people but enabled Hanoi and the Heng Samrin Government to obstruct international aid shipments on the ground that the United States really intended them to support the Pol Pot regime. Yet the likelihood of the Carter Administration making a significant peace initiative is small—in part because of its current "tilt" toward China and in part because it would be bucking the political tide in Congress and in the country at large.

We must concur with this pessimistic assessment. Accordingly, we urge all Americans concerned about the fate of the Khmer people to continue to contribute to relief efforts but also to devote a major effort to making a Cambodian political settlement an issue in all Congressional races and in the Presidential campaign.

Fred Rodell

In the wee small hours at Toots Shor's long ago, I saw Frank Sinatra kiss Joe E. Lewis good night, just as the great comic dragged himself off for a little shuteye before the morning bottle. Wistfully, Sinatra said to nobody in particular: "Every time I say good night to that lovely sonofabitch I gotta figure on saying goodbye." Fred Rodell, the fabulous iconoclast of the Yale Law School, who died on June 4 at the age of 73, never let me forget that incident. For the past decade, Rodell was beset with a plague of Jobian illnesses. Every time I talked to him, I had to figure it was the last time. Like Joe E., he kept fooling the medics; unlike Job, he didn't cry out to the heavens. His only complaints were that his drinking days were done and that he didn't have the strength to discomfit his enemies.

Long before the Man in the Bright Nightgown came to call, many of Rodell's foes had cashed in—most notably Felix Frankfurter, Dean Acheson, Alexander Bickel. Fred took no pleasure in these funerals; indeed, it galled him to lose such fancy targets, no matter that his typewriter was fast running out of bullets. Rodell knew that other typewriters were working and that he had trained most of them. He also knew that however dead the enemies, the Enemy would live on, for it is an old one, as old as the human soul.

Fred Rodell's enemies were powerful ones, upright and uptight. The Enemy was fear posing as responsibility, pedantry dressed like scholarship, cant parading as truth. He devoted his extraordinary talents to fighting them and it, while at the same time extolling his Charter, which turned out to be no more or less than the Bill of Rights.

He said it in everything he wrote and did, but I think he said it best in the old *American Mercury* in 1945: "Two paths in life are open to the college bright boy. One is to devote that first-rate mind relentlessly to the discovery and expression of naked truth, no matter whose toes may be trampled or whose sacred cow gored. The other is to shade intellectual integrity and courage to get on well in the world—to confine that mind and the work of that mind within the bounds of acceptability to the right people, the best people, the powers that be."

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Of course, Rodell followed the first path, and though he altogether eschewed the second, he was acceptable, for a glorious moment, to some of the powers that be. The Warren Court, or at least its majority, greatly respected him. In my days at *The New York Times*, more than one Justice told me that Rodell knew more about them, was better able to analyze and predict them, than all the fancy scholars rolled into one. And at his home in Bethany, Connecticut, next to a picture of Hugo Black and a bust of Bill Douglas, hangs the photograph of the 1968 Supreme Court, featuring this message: "To Fred Rodell, than whom this court has had no greater friend, from his friend Earl Warren."

In a way he lived too long; he didn't need to see the Burger Court undermine nearly everything the Warren Court had accomplished. Still, his *Nine Men*, written in 1955, was a precurser to *The Brethren*, and eons better and wiser than that current best seller. And he was more than a little pleased to be around when Berkley Publishing this year reprinted his 1939 opus, *Woe Unto You, Lawyers!* [see page 763], to rave reviews, particularly from young people who were surprised to see that somebody knew all about legal gobbledygook forty years ago.

Rodell's greatest influence lay in the unique seminar he taught at Yale called "Law and Public Opinion." It was a course devoted to teaching lawyers to write about the law in the English language. It spawned, like Jolson, Crosby and Sinatra, hundreds of imitators. And in journalism it turned out the first generation of lawyer-journalists.

But I don't want to miss the man in all this. What Fred Rodell had, the thing about him, was his attractiveness; a romantic allure that only the dullest could not see. For those of us fortunate enough to be there in the 1950s, the Yale Law School was, above all, Fred Rodell. He was the one who had been everywhere, seen everything. They knew him at Sardi's and at Frankie and Johnnie's and at the Ritz in Paris. He was our Bogart, to be found (why not?) in all the gin joints in all the towns in all the world. The last words he said to me were these: "I'll see you in hell." I'll check it out, and if he's there, I'm coming. SIDNEY ZION

Sidney Zion is a lawyer and journalist who is a regular contributor to The New York Times Magazine.

ARTICLES.

HIS NAME WAS MUDD

The Trashing Of Teddy

RONNIE DUGGER

He is the last Prince of Camelot—in his generation, anyway—and the Prince has been humbled, but so have the poor, the sick and the old, who were already humble. Why did the media of American progressives join in the savaging of Edward Kennedy, the only major candidate for President who is a reliable and effective champion of the ordinary and the downtrodden? "Chappaquiddick"—the answer comes at once. But the answer is not that easy.

For one thing, the Democratic Party is now about to be thoroughly Southernized and corporatized. Surely the national liberals did not intend that, but it is here.

I first saw this happen to the Democratic Party in Texas in the 1950s. The Democratic Governor, Allan Shivers, led the state party into open endorsement of Eisenhower, and when the liberal Democrats tried to take the party back, they were accused of causing disunity. Harmony and unity, those were the siren songs of the Texas Democrats who had turned their party over to big business and Eisenhower.

The Southernization of the national Democrats began with Texanization, especially with the promotion of Robert Strauss of Dallas into high-level party office. By 1974, Texans and Southerners were running the Democrats' miniconvention in Kansas City, Missouri, and the result was the same boss-run sessions, the same kind of corporate apologists running the committees, that I had seen in the Texas Democratic Party in the 1950s. Now it is Jimmy Carter of Georgia President, and Texan John White the national party chairman.

As the process began with political perfidy in Texas, so has the process advanced through broken promises nationally. Carter operatives like Strauss and White have accused Kennedy of dividing the Democrats, when the cause of disunity is Carter's failure to keep his own solemn promises.

Carter would advocate, he promised, a comprehensive national health insurance program. He did not—he opposed it. He would cut military spending; he is raising it. He would cut U.S. sales of the tools of mayhem abroad; he has not. He would reform that "disgrace to the human race," the tax system. He would give us 4 percent inflation and 4.5 percent unemployment and never fight inflation with recession and unemployment. And now, trumping up a phony crisis over Russian troops in Cuba, blowing the Russian invasion of Afghanistan out of all proportion, he's trying to stampede Congress into peacetime draft registration. On such a record, he will call for harmony and unity. James Reston of *The New York Times* senses the historical shift when he writes that "the Democratic liberals" have to swallow Carter to beat Reagan.

The press gang-up on Kennedy has been a herd attack, an obscene feast. Whoever thought of the metaphor first, it's true: reporters are like crows perched on a power line. When one of them flies down to investigate something, the flock

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follows. When one of them moves on to another spot, the others follow. And when one returns to the power line to wait, so do the rest.

The job on Kennedy began with Roger Mudd's CBS special on him last fall. Taped last August, well before Kennedy had decided to run, but aired in November three days before his formal announcement, the interview showed a slow-thinking (or slowly-thinking) Kennedy, uncertain why he wanted to be President and syntactically tangled and hesitant as he repeated, one more time, his Chappaquiddick story. It seemed to me he may have been literally bemused as he realized that family friend Mudd was going after him, on camera, like a cat after a lizard.

The full-page ad in *The New York Times* announcing the program entitled it "Teddy?"—but by air time the question mark had been dropped. Why? That question mark too transparently showed what was happening: a major network, in its protected and privileged exercise of its news function, was challenging the candidacy of the one potent liberal contender for the Presidency by a special focusing almost entirely on the one big minus in his record.

CBS News made Chappaquiddick *the* issue. Though this was CBS News's definitive presentation on "Teddy" (or "Teddy?"), there was no real discussion of Kennedy's 8,500 votes on the record over seventeen years in the Senate. Here, in the leading liberal candidate's record, was abundant grist for a full review of the serious domestic and foreign policy issues of our times, along, of course, with Chappaquiddick, too. Instead we were given Chappaquiddick with a vengeance and very little but Chappaquiddick.

In his commentaries, Mudd was remorselessly critical and dubious. He made special use of the medium to prejudice those watching by telling us which Kennedy hesitations and flinchings to watch for before we saw and heard them and then, after we had seen and heard the chosen segment, by telling us what was wrong with what he had just let us hear Kennedy say.

Disbelieving my eyes, for I had never seen network news so used, I wrote CBS News asking for a transcript, but it was not sent. I wonder if CBS realized that this program, which certainly changed American history, raised the hidden, deepest issue concerning the network news triopoly of the publicly owned airways. Only once before in recent years did this issue heave into view, when the International Telephone and Telegraph Corporation almost merged with ABC. The issue is: How did three corporations get this stranglehold on national television news, and why, when it is vulnerable to such an objectionable use as the Mudd program on Kennedy, should the triopoly continue to be tolerated under the antitrust laws? What was going on at CBS when CBS News (as journalist James Kilpatrick wrote approvingly) "dissected Kennedy"?

As the press piled on and the political issue became Kennedy personally, progressives were not exempt from the pressures that made people feel embarrassed to be for him. While some writers of the left were attacking him, most were silent, and the magazines one would have expected to present the case for him did not.

In recent years the only other gang-ups like this were those on Robert Kennedy and George McGovern. Can it be that when a really tough progressive gets close to the uppermost power, the skill and virulence of the attacks on him in the corporate press expose the exemplars of the progressive press as mere approval-seekers who follow the corporate press just as much as ordinary voters do? Surely not? Then why was the salient consensus against McGovern and Robert and Edward Kennedy, in each case, a consensus of specifically personal contempt? That is what the corporate press vended, and that is what the left press bought.

In *The New Republic*, too, Morton Kondracke *chastised* Kennedy for having opposed the Vietnam War. And on May 17, in the same journal, under a headline that Reagan's " 'simple' world view is truer than Carter's 'complex' one," Robert W. Tucker wrote that the choice is Carter or Reagan, and "Carter's defeat in November must be sought." Nat Hentoff, presenting charges against Kennedy's allegiance to civil liberties in the pending criminal code revision, attacks him as if that kaleidoscopic topic had only one side—and along comes *The Progressive*, doing the same thing. In *The Nation* ("The Anderson Candidacy," May 17), which has endorsed no candidate this year, Robert Sherrill gives his three litmus tests for the Presidential candidates, all of which Kennedy passes, without mentioning Kennedy's name; but how could Sherrill be for the Prince of Camelot when he excoriated him in a book? James Ridgeway and Alexander Cockburn knew, as they wrote in *The Village Voice* on December 31, 1979, that Kennedy of all the candidates "does have the most generous social outlook. He cares about the poor and the old and the sick, and he wants to change the structure of society to make life better for

DRAWINGS BY JOHN ALCORN

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them." Yet a month later they wrote that his campaign "appears to be hopeless."

Now, what in the world goes on here? How can the simple, basic matter of a Senator's consistent liberalism as proved by his 8,500 recorded votes escape the interests and attention of such sophisticated auditors? Have they, too, been mesmerized by American politics as soap opera? Can it be they're so sophisticated they think mockery is meat, and panache, potatoes?

When personal questions about a candidate become questions about his character, it is, of course, fair to pursue them in print and in public debate. But in the case of this Kennedy, something more than this was also operating—or rather, something less. Historian James MacGregor Burns tried to name it, not entirely successfully, when he condemned "the McCarthyism of the righteous," "an explosion of sanctimonious moralizing about Kennedy" by "moralizing finger-pointers and political opportunists." What we might wish to learn from this situation is that progressives, like other people, can be cudgeled into acting against their own convictions when the media succeed in dissolving the focus on the issues into a selective focus on personal vulnerabilities. Once that point is reached, hypocrisy, the fear of being held in contempt for one's opinions, social embarrassment, defeatism and the fear of losing turn the progressive movement into just another expression of the ordinary human disarray. In 1980, as in 1972, progressives let abuse of the leader break the movement—just when real power was within the working people's grasp.

All this signifies, too, with a vengeance, the personalization of our politics, its conversion into a star system, the debasement of the nutritious politics of issues, ideals, programs and values into the junk politics of personal tragedies, myths, themes and slogans. Could Joan Kennedy recover her self-confidence and be a good queen? Shall we trust the born-again Baptist who lied to us instead of the last-born Kennedy who's willing to die for us, or anyway, for something? At the last, too late, in a cover story in *Rolling Stone* dated June 12, Cockburn and Ridgeway saw the trap, writing: "Is Chappaquiddick worse than Carter? Is the man who did not go to the police for ten hours worse than the man who played politics with the hostages for over 200 days?" Far from worse, they concluded, Kennedy's "is the decent program, and he has the will to carry it across the country," and "the option is clear enough: to support Kennedy's cause, as long as the choice is there."

The nature of the media gang-up on Kennedy lies precisely in the tireless elaboration of the one big black mark against him and a culpable neglect of his record. As *The New York Times* reported, that record shows that he believes Government should "protect the underprivileged from the money and power of the privileged, especially big business." Clearly he has the best record on the issues that concern liberals.

He was the principal sponsor of the 1974 Solar Energy Act; his subcommittee produced the first earmarked money for National Science Foundation solar research; a proposal of his led to the subsidy of up to $2,000 on loans for solar energy. While Carter doggedly upholds nuclear power, Kennedy proposes the phase-out of all nuclear plants, starting with a moratorium on licensing new ones.

Kennedy has backed every civil rights bill passed while he has been a Senator—public accommodations, voting, housing, school desegregation, affirmative action in hiring, one-person/one-vote reapportionment. He was a leader for the extension of the ratification date for the Equal Rights Amendment. He sponsored or co-sponsored many of the major educational programs of the Great Society.

His oil holdings were cited in a *Washington Post* exposé, as if they reflect on his credibility on energy issues. On the contrary, their existence *proves* his sincerity; in 1975 he led the fight that ended the outrageous oil depletion allowance. On the minimum tax, reducing tax shelters, a larger oil windfall profits tax than the one that passed—name it, he's there. True, he supports increases in depreciation allowances for business, but even rad-libs should admit there is a problem of capital formation when U.S. industry loses as much ground as it has to foreign competition. Kennedy also proposes to make such tax cuts for business socially selective so as to channel investment into inner cities, for instance, and favor growth that protects the environment.

Although he's pictured as a chauvinistic womanizer, consider Kennedy's actual record on women's issues. He has supported Federal programs for prenatal care and counseling for pregnant teen-agers, local rape crisis centers, training displaced homemakers, increasing women's opportunities for scientific careers, insuring equal credit and support for woman-owned businesses, prohibiting discrimination on the basis of pregnancy, aid for victims of spouse abuse, expanded day care and closing the male-female wage gap in Federal employment. In the criminal code revision he inserted a provision to abolish the requirement of corroboration of the victim's testimony in rape cases. He's for Medicaid funding for abortions for poor women when there are serious health consequences.

He has supported unions' right to common situs picketing and has opposed every effort to weaken the mandatory Federal wage standards for construction workers. He fights for small business by calling for stricter antitrust enforcement, and he proposes to require Federal agencies to allocate a percentage of their research and development funds to small science and technology companies, to protect successful small businesses from takeovers and give special tax help to small businesses on machinery and equipment.

He led a group of Senators proposing a national minimum income, minimum payments at 65 percent of the poverty level, a program for intact families and fiscal relief for the states' welfare programs. He has been a central figure in the enactment of Federal support for neighborhood health centers, community disease prevention and mental health centers, and health maintenance organizations. His bill for national health insurance (the nonpassage of which is not his fault but Carter's for opposing it) provides universal coverage and comprehensive benefits. Kennedy spon-

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sored a Federal program of hot meals every day for half a million old people and backed expanded legal services for the elderly.

His advocacy has made respectable the need for anti-inflationary wage and price controls, and the terms of his proposal upped the ante to include controls on interest rates, profits, dividends and rents. Carter, for his part, stunned progressives by crusading for higher oil and gas prices—decontrolling the price of domestic crude, even trying to raise gasoline prices an extra dime a gallon by his oil import fee—as if asking us to believe that the way to lower prices is to raise them. And while Carter has cut the budget and doubled back to oppose cutting it, Kennedy has fought the cuts that hurt the poor. Kennedy may be a "big spender," but a big spender for what? For Federal housing rehabilitation programs, public housing assistance, rent supports, urban mass transit, food stamps, unemployment compensation, soil conservation, youth job programs (he'd triple Carter's spending for this).

On May 20 in Newark, Senator Kennedy proposed a mechanism that could become an opening toward structural economic reforms: a quasi-public American Reindustrialization Corporation, funded in part by Congress and in part from the capital markets, administered by public and private representatives, charged to stimulate private investment where there are economic or technological gaps (and to seed or leverage such investments) and empowered to issue and sell stocks to the public and provide grants, loans, guarantees and interest subsidies.

Kennedy has held hearings on pollution, environmental sources of cancer, radiation problems, airport noise; he's introduced a bill to make oil companies liable for damage from oil spills. While Carter has let the Consumer Protection Agency slip down the tube, Kennedy has worked for truth-in-lending, product safety, a public counsel for consumers in Federal agency proceedings and the right of consumers to sue against high prices that violate antitrust laws. The protection of consumers has been a primary purpose of his airline and trucking deregulation.

On national defense, Kennedy's recent rhetoric about military strength and world leadership sounds too much like John Kennedy before the Cuban missile crisis, and he even voted for a 3 percent increase in the military budget. However, he also co-sponsored a resolution prohibiting the Central Intelligence Agency from funding the rebels in Angola; he voted against the ABM and the B-1; he is for development but against deployment of the MX; he opposes draft registration, and he has cautioned Carter not to lead us into "Cold War II" and rebuked him for whipping up a new "war hysteria." By resisting this hysteria in his speech at Georgetown University, as his party's only alternative to the Born-Again Hawk, Kennedy serves.

Kennedy amendments prohibit military aid to the Argentine and Chilean juntas. He favors sanctions on military sales to racist South Africa, active discouragement of new private investment in that country and adherence to the Sullivan fair employment principles by the companies there now. During the Vietnam War he specialized in the Senate in getting help for the civilian victims and refugees. His amendments provided $400 million in humanitarian aid to Bangladesh, $105 million to Cyprus and similar aid to people in Lebanon, the Sahel and southern Africa.

In progressive media we have read quite a bit about Kennedy's central role in the pending revision of the criminal code, of which he is the principal sponsor. *The Progressive*, for instance, editorialized that the bill impedes labor's right to strike, criminalizes antinuclear demonstrations that lead to damage of a nuclear facility, provides new authority for preventive detention. Perhaps the indictment is justified, wholly or in part; Kennedy is not satisfied with the bill and wants further changes. However, some responsible civil libertarians believe the issue is whether the bill overall makes a significant improvement in the present criminal code. Kennedy believes it does.

In response to sharp, multipointed attacks on the bill by the American Civil Liberties Union, Kennedy's people say in effect that the A.C.L.U.'s critique is in many cases deficient—plain wrong, unfair or out of perspective. Kennedy's people say the bill will reduce disparities in sentences; provide more certain punishment while shortening prison sentences; strengthen civil liberties by repealing the Smith (anti-Communist), Logan (anti-unauthorized diplomacy) and Comstock (antipornography) acts; prohibit sabotage of political campaigns; prohibit owning eavesdropping gear with intent to use it illegally; limit governmental warrantless wiretaps; sharply curtail the criminal contempt power, and strengthen civil rights and antidiscrimination laws. This is

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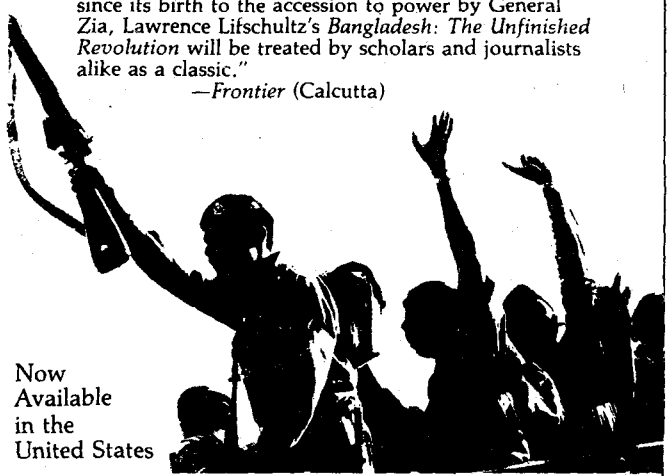

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not, Kennedy's people emphasize, the original S.1, which Kennedy fought. Kennedy also denies that the bill provides for preventive detention (which he opposes) or punishes peaceful demonstrators at nuclear sites.

The complexity of this subject—and its susceptibility to simplistic polemics and misunderstandings among non-lawyers—can be illustrated by the response of Alan M. Dershowitz, a professor of law at Harvard who has worked with Kennedy drafting the pending bill, and Joseph Rauh, the Washington lawyer specializing in civil rights matters, to an editorial in *The Los Angeles Times* on the subject. Two paragraphs of the Dershowitz-Rauh letter must suffice:

> The editorial . . . says that the "bill would prohibit picketing, parading, displaying a sign or otherwise demonstrating within 100 feet of a federal courthouse while any judicial proceeding was in progress." That, too, is a significant improvement over existing law; it is far preferable to set precise distances—100 feet—than to prohibit all demonstrations "near" a federal courthouse; moreover, the proposed statute expressly allows the defense that the demonstrators did not make "unreasonable noise," thus permitting silent vigils and other kinds of discreet and decorous courthouse protests. Again, perhaps not enough for some, but surely a major improvement over existing law.
>
> The editorial claims that the proposed code would undercut First Amendment rights by making it a crime to "incite" insubordination, and by enacting "an Official Secrets Act." But again existing law is far worse, and the proposed code would strengthen rather than weaken First Amendment rights: requiring the prohibited speech to reach the level of "incitement" rather than the far less demanding level of "advising," "counseling" or "urging"—as current law provides—expands rather than contracts the ambit of permissible speech.

In *The Village Voice*, Hentoff assailed "Kennedy's systematic attack on a good many of our most basic constitutional liberties" and "his active contempt for the Bill of Rights." It is inherently implausible to contend that a Senator with Kennedy's record is suddenly plotting to undermine the Bill of Rights. Kennedy opposed bureaucratic impediments to public access to agency records, introduced legislation to protect Federal whistleblowers, supported restricting international security wiretapping and requiring evidence of criminal conduct before a citizen can be spied on by the Government, and advocates the charter defining the permissible limits of Federal Bureau of Investigation activity. On the record across the board he has proved himself a liberal's liberal. The pending code should be challenged on every questionable point—but in that context.

Surely much of the energy for the opposition to Kennedy has come from personal objections to him. Let us try to name the personal limitations he may have that are suggested by three incidents and one pattern from his life.

His using a stand-in to take his Spanish exam at Harvard suggested the driven opportunism of the youngest son of a harsh, demanding father who stressed winning ahead of everything. The police lieutenant's story of Ted, while in law school, speeding, outdistancing the police car and then discovered parked with the lights out and doubled up hiding behind his steering wheel, suggests the same youngest son still afraid—not of the law or another speeding ticket but of his father.

Whatever happened at Chappaquiddick—I think we do not know what did—it appears fair to conclude that in failing to summon help and the police until the next morning, Kennedy was thinking more clearly about his career (and still his father) than about whether Mary Jo Kopechne might still be alive. It is also possible that not only the avoidance of prosecution for manslaughter but also gallantry, the protection of young women's reputations, may have been a factor motivating Kennedy to tell the story he did. Finally, whether Kennedy actually panicked in this crisis or not, according to his own story, written by his advisers, he did.

The death of his father in 1969, four months after Chappaquiddick, may have been the only way Teddy could become Edward. As Max Lerner notes in *Ted and the Kennedy Legend*, on the last night, the youngest and only surviving son spent the night next to his father's bed, in a sleeping bag. Joe, Jack, Bob—all his big brothers, and now his father, were lost and gone.

The flaw of his alleged pattern of pursuing women as conquests can be seen as a part of the macho role model he acquired growing up in Joseph Kennedy's family. In that family, it appears, the male dominance principle and the double standard were the ruling modes. Teach a handsome boy those modes, make him a millionaire at 21, and only the arrival of a revolutionary new awareness of women's rights can teach him to see his behavior in a new way. Yet of course just such a movement has arrived and has taught him, as it has most of us, men and women, much that we really did not understand before. Let him or her who is without sin cast the first stone.

Of course Chappaquiddick is a minus against Kennedy; it should be. What we are supposed to do is weigh the pluses and minuses of each candidate and reach a decision. Kennedy's courage in running despite the assassination of his brothers is a plus for him that has finally been noticed. Another plus is his fight, his refusal to quit despite steady drumbeating in the media suggesting that he do so, a fight that gives him the strength to refuse to concede to Carter even with all the primaries over and Carter's delegate total well over the top. And there is also Kennedy's grace, his good humor, despite the defeatism, abuse and contempt that have been crushing in on him. These things, too, are elements in his character.

Why is Kennedy such a good soldier, such a good sport? Perhaps because he is not afraid of being killed, he is not afraid of losing a fight he believes in. His cup filled with tragedies, for some of which he bears blame, he has emerged, it appears, a deeper person, intact and strong. My sense of the good leader is one who has learned from the frailties and dangers within himself to understand them in others. If any of us could personally choose our leaders, we would not choose one as vulnerable as Kennedy, but history chooses them, and history chose him. When that history gives us too

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righteous a leader, we are in danger. Let one come by his compassion, though, from his own need of it from others, so that his righteousness is signified not in his person but in his *issues*—that is what we can hope to be able to trust.

This year is surely a national political emergency—Ronald Reagan has at least an even chance to win, and this, I think, puts the whole human race at seriously increased risk of nuclear war. At a time when we may be seeing the breakup of the two-party system, Kennedy now is finally reduced to hoping for some kind of upheaval of feeling against Carter's renomination—because of steepening recession, perhaps, or because polls show him to be unelectable. But whatever happens and whatever else has to be said later about 1980, let it at least be remembered that despite withering abuse and orchestrated pressure, the last of the three Kennedy brothers came on in and fought the good fight and fought it well. □

STORY OF A COUP

Kissinger's Bangladesh Sideshow

LAWRENCE LIFSCHULTZ and KAI BIRD

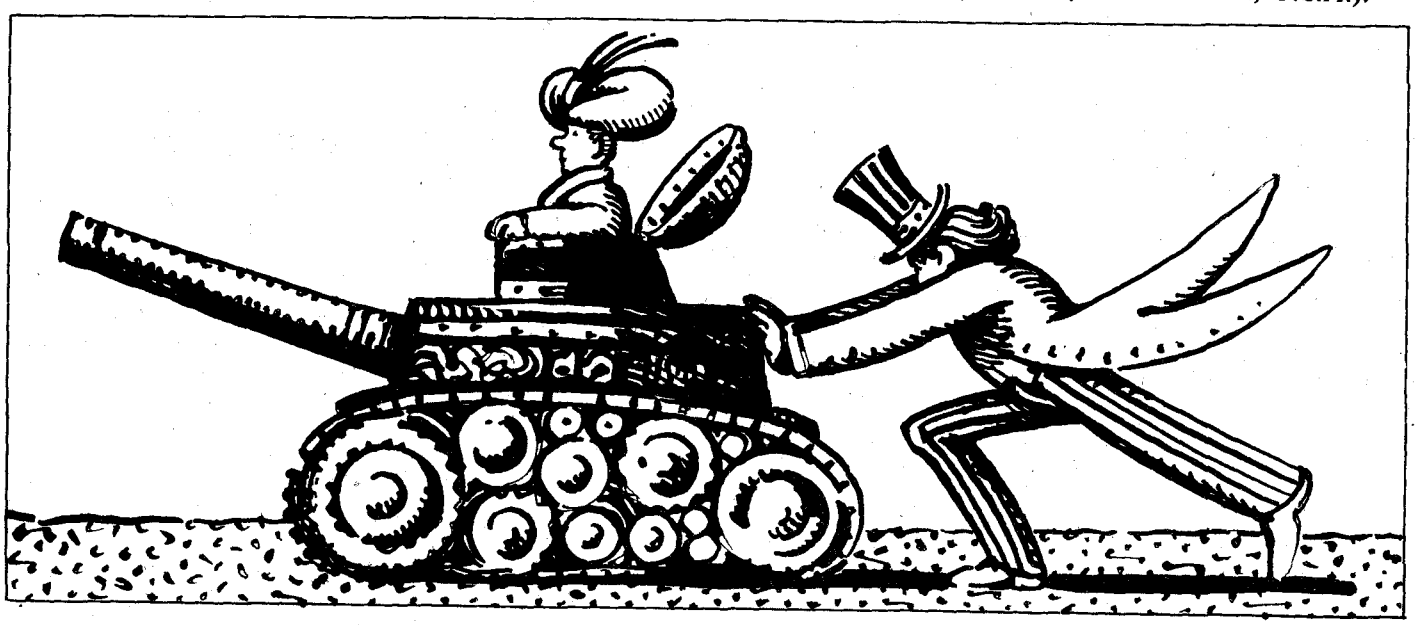
The peripheral nations always pay the heaviest toll. The tragic course of Cambodia's history after Henry Kissinger's extension of the war in Southeast Asia is only one instance of this principle. Kissinger's conduct of American foreign policy was marked by repeated lesser-known interventions, both covert and military, in the affairs of numerous countries.

There were many sideshows, and one of them was in Bangladesh. Kissinger's role with respect to that hardly noticed country, which was born out of the bloody civil war of 1970-71, raises additional disturbing questions about the cynical assumptions that influenced our foreign policy during the Kissinger years. One result of Kissinger's "tilt" policy toward Pakistan's military regime during that civil war was to help prolong a conflict that ultimately claimed nearly a million casualties and created more than eight million refugees. And yet, in large measure because Asian rather than American blood was spilled, the record of Kissinger's covert maneuvering in Bangladesh has remained obscure.

Ever since columnist Jack Anderson obtained transcripts of National Security Council meetings concerning the 1971 Bangladesh crisis, we have known that Kissinger viewed the tilt to Pakistan as a necessary ingredient of his China policy; and, of course, in retrospect, his opening to China was a key to his bureaucratic staying power in the Nixon Administration. Now, new documentary evidence, extensive interviews with State Department and Central Intelligence Agency officials and access to some 150 interviews conducted in connection with an aborted study sponsored by the Carnegie Endowment for International Peace make it possible to reconstruct the covert facet of the tilt policy. To Kissinger, Bangladesh was an irritant threatening to upset more important global realignments already in motion, and so he set about by secret diplomacy to break up the Bangladesh Awami League, which was in the forefront of that country's struggle for independence.

What is particularly startling, however, about this new information, is that a coup d'etat four years later (on August 15, 1975) which overthrew the social democratic Government of Sheik Mujibur Rahman was organized by the same right-wing clique that carried out repeated secret contacts with

Lawrence Lifschultz was South Asia Correspondent for the Far Eastern Economic Review *and* The Manchester Guardian. *Kai Bird is Associate Editor of* The Nation. *They are authors of* Bangladesh: The Unfinished Revolution *(Zed Press, London; distributed by Lawrence Hill, U.S.A.).*



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Kissinger in the 1971 period. The involvement of elements within the American Government—specifically including Kissinger—with this group opens up the question of American links to those who carried out the 1975 coup, which resulted in the killing of President Mujibur Rahman and forty members of his family.

It will be recalled that in December 1970, after a decade of military dictatorship, Pakistan held the first free and democratic elections in its history. The East Pakistan-based Awami League won an absolute majority in the proposed National Assembly and, in line with agreed democratic procedures, the leader of the league, Mujibur Rahman, would have become Prime Minister of all of Pakistan. On March 1, 1971, the country's provisional military junta, under Gen. Yahya Khan, arbitrarily postponed the convening of the National Assembly scheduled for March 3, triggering mass civil disobedience in East Pakistan. On March 25, in the worst bloodshed ever seen in a single night in South Asia, the Pakistani Army cracked down on Mujibur Rahman's democratic movement, driving Pakistan into a civil war that resulted in the creation of a new nation, Bangladesh, out of the ashes of the former East Pakistan.

Within the American State Department these events created a severe and open rift. Despite mass killings in Dacca carried out with American-supplied weapons, Kissinger and his national security aide for South Asia, Harold Saunders, supported the Pakistani junta and maintained a tilt policy, which resulted in a bitter disagreement in the foreign service. Twenty U.S. consular officials, led by Archer Blood, the consul general in Dacca, cabled from East Pakistan their collective dissent:

> Our government has failed to denounce the suppression of democracy. Our government has failed to take forceful measures to protect its citizens while at the same time bending over backwards to placate the West Pak dominated government. . . . Our government has evidenced what many will consider moral bankruptcy, ironically at a time when the U.S.S.R. sent President Yahya a message defending democracy, condemning the arrest of a leader of a democratically elected majority party. . . . But we have chosen not to intervene, even morally, on the grounds that the Awami conflict, in which unfortunately the overworked term genocide is applicable, is purely an internal matter of a sovereign state. Private Americans have expressed disgust. We, as professional public servants, express our dissent.

This passionate indictment against massacre was ignored by Kissinger. During the spring of 1971 the overriding priority of U.S. policy in South Asia was Kissinger's plan for a dramatic shift in Sino-American relations. On July 9, in the midst of Pakistan's civil war, he would travel secretly in a Pakistani aircraft from Islamabad to Peking. Kissinger's own political prospects within the Nixon Administration were hinged on this venture. All other questions took a subordinate position.

Inside the Administration, Nixon's two closest advisers on domestic policy, H. R. Haldeman and John Ehrlichman, despised Kissinger and sought his removal from Nixon's inner circle in a second term. China policy thus became Kissinger's key to continued bureaucratic power and the stepping-stone for his rise to the post of Secretary of State in 1973. Global realignments were in motion and the Bengal "problem" appeared as a threatening and annoying sidelight. At the time of the massacre in Dacca, Pakistan's Gen. Yahya Khan was Kissinger's crucial intermediary in the first delicate steps of Nixon's reach for the Forbidden City and Tien An Men. Kissinger was adamant that these negotiations should not be disturbed at any cost and no alternative channel was pursued. A tilt to Pakistan became a necessary ingredient to Kissinger's China policy. The Bengalis were a complete sideshow.

It was in this context that Kissinger then launched his own effort to undermine and subvert the Bangladesh independence movement. For years, there have been rumors of secret contacts and negotiations carried out by the Americans in 1971. Now, according to documents contained in an unpublished study commissioned by the Washington-based Carnegie Endowment for International Peace, a leading American foreign policy research institution, the existence of these links has been definitively established.*

The Carnegie papers reveal a bureaucratic drama that would have been merely petty were it not for its tragic consequences. As the officials involved recalled the meetings and conferences in the upper reaches of American diplomacy during the height of the crisis, the great issues of the time—genocide in Bengal, superpower rivalry, American policy toward dictatorship and democracy in Pakistan—all seemed to have been reduced to the level of Nixon's personal hatred of Indira Gandhi and Kissinger's obsession with the China negotiations.

The Carnegie documents make it unequivocally clear that secret contacts took place in 1971 in Calcutta between American diplomats and a faction of the Bangladesh Provisional Government led by Khondaker Mustaque Ahmed, a conservative Moslem leader of the right-wing faction of the Awami League and the Acting Foreign Minister in the Government-in-exile's shadow Cabinet. Kissinger's hope was to split the nationalist movement and arrive at a settlement short of independence. The American contacts were made

*In 1973 the Carnegie Endowment commissioned a study of the conduct of U.S. policy during the 1971 Bangladesh crisis to examine the process whereby the U.S. tilt toward Pakistan virtually countenanced genocide. Due to internal dissension at Carnegie, the study was never completed, although more than 150 senior officials—from the State Department to the C.I.A.—had been interviewed in detail. From sources within the Endowment, all interviews and raw information gathered in the course of the study were made available to the authors. The documents ran into thousands of pages.

THE NATION ON THE AIR

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with the Mustaque faction of the Awami League in Calcutta and were highly sensitive since they bypassed the Prime Minister of the provisional Government, Tajuddin Ahmed, who had the support of virtually the entire Bengali leadership in an unyielding demand for complete independence. Within the Provisional Government the solitary exception to this position was Mustaque.

Henry Kissinger, then working with the same Pakistan military junta that was helping him with his China negotiations, began an exercise aimed at dividing the exiled Awami League by splitting the Bengali leadership and supporting the faction that would be prepared to compromise with Pakistan and not demand full independence. However, Mustaque's clandestine contacts with the Americans were discovered in October 1971, and he was placed under house arrest in Calcutta by his angered colleagues in the Awami League, who considered his secret negotiations an act of treason.

Following the independence of Bangladesh in 1971, Mustaque was quietly pardoned by Mujib and given a minor position in the post-independence Government. He was to have little influence in the Mujib Government, whose policies over the next few years were dominated by the social democratic wing of the Awami League. The discovery of his secret indiscretions with the Americans had not only set back his political career, it had also assured the ascendancy of the pseudo-socialist and anti-American faction of the Awami League. Mustaque, who openly favored laissez-faire capitalism, seemed to have been relegated to permanent political oblivion. Yet, four years later, it was Mustaque, and his protégés from the days of the secret Calcutta connection, who emerged as the political leadership of the putsch that killed Mujib.

Just after midnight on August 14, 1975, in Bangladesh's capital city of Dacca, the Bengal Lancers and the Bangladesh Armoured Corps trundled out of the main military cantonment. They lined up in formation on the runway of an abandoned half-built airport at the edge of the city. From atop a tank, the commanding officer of the column, Maj. Farooq Rahman, who was one of the six young army officers leading the military operation, told his troops in a fire-eating speech that on that very night they would overthrow the regime of Mujibur Rahman. Within three hours Mujib was dead. The political figure installed by the officers was Khondakar Mustaque Ahmed.

At the time, the world press reported the motives for the coup as a combination of personal grudges against Mujib and his associates, held by certain of the officers, and a general mood of frustration at the widespread corruption that had come to characterize Mujib's regime.

The evidence suggests, however, that far from being a relatively spontaneous military putsch by a handful of disgruntled army officers, the coup had an identifiable political leadership. Knowledgeable Bengali and foreign diplomatic sources now claim that Mustaque and his political associates had been involved for more than a year in plans designed to bring about the overthrow of Mujib. Moreover, according to information obtained in our inter-

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views of senior U.S. officials at the American Embassy in Dacca, it appears that the United States had prior knowledge of the coup that killed Mujib, and that American Embassy personnel had held discussions with individuals involved in the plan more than six months prior to his death.

One highly placed U.S. Embassy diplomat told us that officials at the American Embassy were approached by people intending to overthrow the Government of Mujibur Rahman. This embassy source says that a series of meetings took place with embassy personnel between November 1974 and January 1975. These discussions were held to determine the attitude of the U.S. Government toward a coup.

The contacts occurred while the Church and Pike intelligence committees were holding hearings in Washington on C.I.A. assassinations of foreign leaders, and the American press was openly speculating that senior American intelligence officials might face imprisonment for illegal clandestine actions in Chile and elsewhere.

In this atmosphere, according to a senior official at the U.S. Embassy in Dacca, a decision was reached in January 1975: "We came to an understanding in the embassy that we would disengage from those people." Although a decision was made at a high level in the embassy that there would be no further contact with the anti-Mujib group, what happened subsequently is a matter of controversy among U.S. officials interviewed.

Those who knew of the earlier meetings deny personal knowledge of what happened after early 1975. Others allege that while contact was broken off at the level of diplomatic and foreign service officials, who wished to remain "clean," liaison was taken over and carried on through the American C.I.A. station chief, Philip Cherry, and other station agents.

When interviewed, Cherry categorically denied this allegation to us. "The Bangladeshis were doing it to themselves," said Cherry. "It's a great canard to think any coup takes place because of an [outside] Government involvement. Almost always coups take place because of the people themselves. . . . There are politicians who frequently approach embassies and perhaps have contacts there. They think they may have contacts. But that's a far cry from any of these embassies [being] involved in assisting them in involvement in a coup."

After Mustaque's coup, Bangladesh took a sharp turn to the right: at home, industries were denationalized and the left-wing parties which had constituted the main public opposition to the Mujib Government faced new repression. Externally, the country's foreign policy became avowedly pro-American, anti-Indian and pro-Pakistani. In the immediate post-coup period, Mustaque appointed to leading positions in the bureaucracy and national intelligence organizations people who had been prominent among the Bengali "Vichy" of 1971—the minute portion of the Bengali population who had actually collaborated with the Pakistani Army following Pakistan's crackdown in Dacca in March 1971.

The majority of the state security personnel, who received dramatic promotions from Mustaque immediately after Mujib's death, were not only identified with the Bengali Vichy but also had been trained prior to Bangladesh's independence by the American Office of Public Safety program at its Washington-based International Police Academy (I.P.A) and the International Police Services School, the latter of which, according to Congressional investigations, had been used exclusively for C.I.A. training of foreign police officials and recruitment of American intelligence "assets."

Most prominent of these was A.B.S. Safdar, who, in the midst of the 1971 civil war, returned from police training at the I.P.A. in Washington to join forces with the Pakistani Army. Immediately after the 1975 coup, Mustaque appointed Safdar director general of National Security Intelligence. Senior civilian sources within the Bangladesh Government, together with informants in the Bangladesh Army, allege that Safdar was intimately linked to the operation against Mujib. Safdar is also alleged to have acted as a principal liaison to C.I.A. Station Chief Cherry. When interviewed, Cherry initially denied ever having met Safdar. Subsequently, he did admit having encountered him socially at a Dacca sports club, but denied that Safdar had ever communicated any information to the U.S. Embassy regarding coup plans.

Two other prominent personalities to emerge at Mustaque's side immediately after the coup were Mahbub Alam Chashi, once a prominent diplomat, and Taheruddin Thakur, a former journalist who had been Mujib's Information Secretary. Both men had served as Mustaque's principal staff men during the 1971 Calcutta days. Each had been allegedly involved in Mustaque's secret Calcutta talks and Kissinger's ploy to divide the Bangladesh independence movement.

The American official who actually held face-to-face meetings with Mustaque's emissaries in Calcutta in 1971 was George Griffin, a Foreign Service political officer stationed at the time in the Calcutta Consulate. Griffin is reported to have had a direct channel to Saunders and Kissinger in the White House, bypassing Ambassador Kenneth Keating and other State Department dissidents, who were opponents of Kissinger's pro-Pakistan tilt.

At one stage in the 1971 negotiations, Kissinger apparently cut out all intermediaries and dealt directly with the Mustaque faction. As a senior official in the State Department's Intelligence and Research Bureau told the Carnegie Endowment researchers, "He [Kissinger] had been talking to the representatives directly."

By the time Mujib was killed in August 1975, the 1971 South Asian decision makers at the National Security Council had all become top officials of the State Department. With the departure of William Rogers in 1973, tensions between the parallel and often rival structures of the National Security Council and State Department were defused through Kissinger's elevation to the position of Secretary of State. Saunders, who began his career in the C.I.A., was one of Kissinger's only staff men to move with him to the State Department, as director of the department's Intelli-

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gence and Research Bureau. (Saunders's C.I.A. background should have precluded his promotion to a regular State Department job. The State Department had never allowed any long-standing C.I.A. official to assume a top post in the department—until President Carter appointed Saunders Assistant Secretary of State for Near East and South Asia in 1977.) Griffin, Kissinger's man on the spot in Calcutta, was brought back from South Asia to become Saunders's intelligence deputy for the region. As previously decribed, the year after the new team had settled into the State Department, the American diplomatic mission in Dacca was approached by anti-Mujib elements to ascertain the U.S. Government's attitude toward a possible change of regime in Bangladesh. That was in the autumn of 1974. This intelligence was forwarded to Kissinger, Saunders and Griffin in Washington.

When asked about their "prior knowledge" of the plan to overthrow Mujibur Rahman and their past relationship with the group that carried out the coup, both Kissinger and Saunders refused to comment. Although Kissinger's office asked for a detailed list of written questions, his brief return letter failed to give a single direct answer to any question. "I cannot deal with the extraordinary mixture of allegation and innuendos contained in your letter," wrote Kissinger, "except to say that in substance they are so far from the truth that I am impelled to question the motives of your informants." Saunders refused to answer our letters or phone calls.

Leading C.I.A. officials concerned with the subcontinent, such as Alan Wolfe, a senior C.I.A. South Asian analyst and a former Pakistan Station Chief, refused requests for interviews. Wolfe declined, saying any interview would be a "no-win situation." A direct request for official, authorized interviews with William Grimsley, a former C.I.A. Station Chief in New Delhi, Angus Theurmer, John Foster, Wolfe, Cherry and other knowledgeable Agency officials has been refused by Stansfield Turner, Director of Central Intelligence. Requests made two years ago under the Freedom of Information Act for C.I.A. cable traffic and memorandums concerning the August 1975 coup have not been acted on. Although State Department sources have informed us that hundreds of cables relating to the period exist, including detailed reports and memorandums, the department has declassified only thirty-six cables, half of which were heavily blacked out. What remained uncensored was information of the most banal or obvious sort.

Agency officials are hopeful that their intensive campaign in Congress to "unleash" the C.I.A. from any obligations under the Freedom of Information Act will succeed in preventing the disclosure of intelligence documents on Bangladesh and many other sensitive issues. Meanwhile, inside the State Department, officials such as Harold Saunders, still the Assistant Secretary of State for Near East and South Asia, remain in positions of authority that allow them to block the release of any documents concerning their own roles in the Bangladesh events of 1971 and 1975.

What happened in Bangladesh in August 1975 was by no means as simple as it was made to appear in the press at the time. It was clear that Mujib's regime was in deep trouble. The country had just suffered a famine that had killed an estimated 50,000 peasants, for which Government incompetence and corruption was blamed. Civil unrest and rural insurgency were growing problems. In the two years prior to the coup, it was the country's organized left-wing parties that had developed and mobilized public sentiment against Mujib's regime. Yet, when the critical moment of collapse came for Mujib, it was not from a leftist mass uprising —"The Revolution"—as had been long expected but from a narrowly based conspiracy of the right.

In the end, a cohesive right-wing political and intelligence faction that had risen to prominence in the Pakistani period and was swept aside by Mujib after independence in 1971, finally staged a coup in 1975, in alliance with a faction of Mujib's own party, and reinstated themselves in power. The challenge being developed by radical nationalist forces was pre-empted by the August 1975 events. The coup was an inside job by conservative elements within Mujib's own party, his own Cabinet and his own national intelligence service who viewed Mujib's leadership as no longer capable of holding out against a left-wing challenge to their interests.

Mujib's demise in Bangladesh marked, as did Zulfikar Ali Bhutto's "execution" four years later in Pakistan, the end of an entire era of illusions surrounding the prospects for social democracy in conditions of severe backwardness and underdevelopment. In both Bangladesh and Pakistan, military and bureaucratic dictatorships have reasserted themselves like an old and familiar cancer. The full extent to which the long arm of American power and the "national security" vision of Henry Kissinger assisted in the reversion to military dictatorship in Bangladesh is yet to be unearthed down to the last detail. Only the power of a Congressional subpoena will pry loose the documents that will conclusively settle the extent of American links to the group that carried out the 1975 coup. But today, one conclusion is clear beyond any doubt: the United States had a long history of important prior relationships with the political and intelligence leadership of the coup that killed Mujibur Rahman. □

First Amendment

(Continued From Front Cover)

censors, challenge the status quo.

In other times, freedom of speech was a rallying cry for the victims of oppression. In rough chronological sequence, the great battles for free speech in this country during this century were fought by anarchists seeking the right to hold public assemblies, by feminists seeking the right to vote, by Wobblies seeking the right to organize, by birth-control advocates seeking the right to counsel family planning, by World War I pacifists seeking the right to speak against con-

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scription and militarism, by sympathizers with the Russian Revolution promoting Communism, by Jehovah's Witnesses seeking converts, by labor organizers challenging the power of big industry, by leftists opposing loyalty oaths and other cold-war repression, by civil rights activists demonstrating against racial segregation, by opponents of the Vietnam War arousing the nation's conscience and by enemies of Richard Nixon and the national-security state challenging secret government and political surveillance.

Many of the dissenters eventually succeeded. Women vote. Birth-control information may be freely distributed. Industrial unions are well established. Local segregation laws have been nullified. Most loyalty oaths have been eliminated. Richard Nixon was driven from office. None of these would have been possible had the dissenters not prevailed—though not without many losses along the way—in their battles for freedom of speech. Far from shielding the mighty, freedom of speech is the essential mechanism for limiting and redistributing privilege and power. "Freedom," Albert Camus said a quarter of a century ago, "is the concern of the oppressed, and her natural protectors have always come from among the oppressed." At any rate, that used to be the way that most of those struggling to end oppression saw it.

Perhaps the most vigorous of the new censorship movements is the women's campaign against pornography. It seems capable of stirring much greater response from feminists than, say, the campaign to restore Medicaid funding for abortions to the hundreds of thousands of poor women now denied this essential means of controlling their own reproduction. By no means do all of the participants in the women's campaign against pornography favor censorship. Yet many do. They see not only pornographers as the enemies of women but civil libertarians as well. Andrea Dworkin speaks for these new censors when she denounces defenders of the First Amendment as "politically self-righteous fellow travelers of the pornographers," or when she asserts, "The concept of 'civil liberties' in this country has not ever, and does not now, embody principles and behaviors that respect the sexual rights of women."* So does Susan Brownmiller when she declares, "We feminists now find ourselves in the curious situation of having the sexual intimidation of women actually buttressed by some free-speech advocates —the so-called absolutists."

Like other censorship movements, new and old, the women's campaign against pornography insists that the expression it would prohibit causes direct harm. Brownmiller uses the example of the NBC television program *Born Innocent*, which depicted the gang rape of a young girl by other girls in a juvenile institution. The parents of a young girl raped in similar fashion a few days later sued NBC. "To people who maintain that we cannot prove that pictures of sexual violence cause real sexual violence," says Brownmiller, "I say this case is a perfect example of proving cause." She apparently is not troubled by the prospect that a rule of law permitting suppression of such television programs might lead inexorably to suppression of her own book on rape, *Against Our Will*.

In insisting on a cause-and-effect relationship between pornography and violence against women, Dworkin, Brownmiller and company seem to be inspired exclusively by ideology. They ignore the available evidence. The supposed link was studied by the national Commission on Obscenity and Pornography, which delivered its report to the President and Congress ten years ago. The commission concluded that its analyses "do not support the thesis of a causal connection between the availability of erotica and sex crimes among either juveniles or adults" Indeed, the studies it reviewed showed that, "in comparison with other adults, sex offenders and sexual deviants are significantly less experienced with erotica during adolescence. As adults, sex offenders are not significantly different from other adults in response in reported arousal or reported likelihood of engaging in sociosexual behavior following exposure to erotica." Its conclusion that erotica does not cause sex crimes, the commission said, "is stated with due and perhaps excessive caution, since it is obviously not possible, and never would be possible, to state that never on any occasion, under any conditions, did any erotic material ever contribute in any way to the likelihood of any individual committing a sex crime. Indeed, no such statement could be made about any kind of nonerotic material."

The most comprehensive review of this subject in the decade since that report is contained in a report submitted to the British Parliament last November by the Committee on Obscenity and Film Censorship, established in 1977 by the Home Office. The committee, which was headed by Bernard Williams, an internationally renowned philosopher and the Provost of Kings College, Cambridge, differed from its American predecessor in that it endorsed some censorship. It proposed prohibitions on the exhibition of certain films and live performances and restrictions on the display or sale of other materials. Only the printed word would be entirely exempt from censorship if the committee's proposals are adopted.

Although the British committee endorsed censorship, it did not base its proposals on a causal connection between pornography and violence against women. In studying this question, the committee had the benefit of what it described as "the great deal of research work . . . into the effects of exposure to pornography or explicit sexual material or material having a violent content." It reviewed testimony presented to it by about 250 organizations and individuals with greater or lesser expertise on the subject. Some of the testimony was devoted to anecdotes about particular cases in which crimes were purportedly committed as a consequence of exposure to pornography. Summarizing this testimony and the scholarly studies it reviewed, the committee concluded: "Clinical opinion and our impression of the anecdotal evidence cohere: the cases in which a link between pornography and crime has even been suggested are remark-

*These comments, like those from Susan Brownmiller that follow, were delivered at a colloquium held at New York University Law School on "Violent Pornography: Degradation of Women Versus Right of Free Speech." They are reprinted in the school's *Review of Law and Social Change*, Vol. VIII, No. 2, 1978-79.

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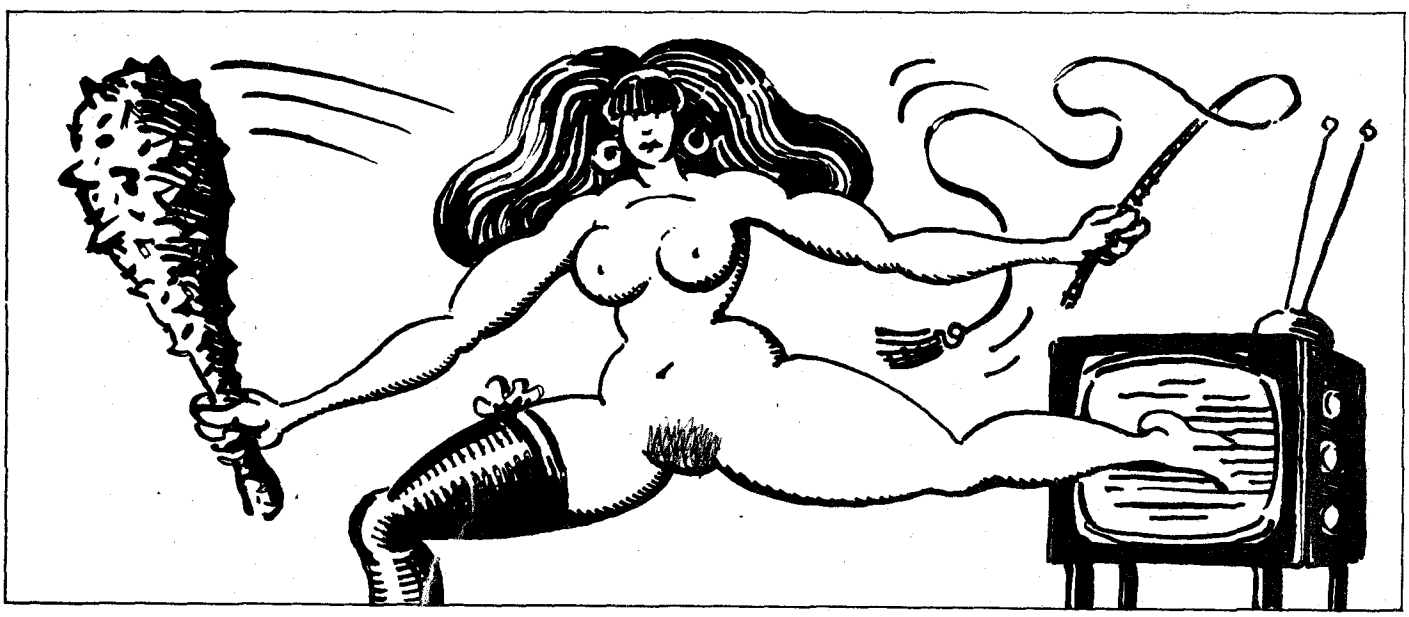
ably few. Given the amount of explicit sexual material in circulation and the allegations often made about its effects, it is striking that one can study case after case of sex crimes and murder without finding any hint at all that pornography was present in the background."

Of course, the ideologically rooted suspicion that there is a causal relationship is buttressed in the United States by the plentifulness of both pornography and violence against women. That can make it seem that there is a connection, providing credibility to Brownmiller's catch line, "Pornography is the theory; rape is the practice." But that impression is quickly dissipated when one looks at the situation in other countries. For example, violence against women is common in two countries I had occasion to visit during the past year, Ireland and South Africa, but pornography is unavailable in those countries. By contrast, violence against women is relatively uncommon in Denmark, Sweden and the Netherlands even though pornography seems to be even more plentifully available than in the United States. To be sure, this proves little or nothing except that more evidence is needed to establish a causal connection between pornography and violence against women beyond the fact that both may exist in the same place. But this evidence, as the American commission concluded ten years ago and as the British committee decided last year, simply does not exist.

Of course, if it were possible to demonstrate some causal connection between pornography and violence against women, or a film like *Cruising* and violence against gays, the case for censorship would hardly be complete. As the British committee noted, a television version of *The Brothers Karamazov* "was said to have influenced a young man to attempt to kill his parents with a meat cleaver in 1976, and it was the American television series *Roots* which was alleged to have prompted a Jamaican in London to rape a white woman, saying that he was going to treat her as white men had treated black women. While we have been preparing this report, the I.R.A. have planted a bomb in a manner modelled on an incident in a television crime series; a 12-year-old boy has been reported as shooting himself in Detroit while playing Russian roulette after seeing *The Deer Hunter*; and an 8-year-old girl has jumped from a second floor landing in Barcelona after telling her playmates she was Superman." It could hardly be proposed to censor all these. There would be few books left on library shelves and few films that could be shown if every one that had at some time "provoked" bizarre behavior were censored.

Some of the new censors proclaim that they do not actually endorse censorship. "We're not trying to be censors, and we haven't asked the government to be censors either," say Charles Brydon and Lucia Valeska, co-executive directors of the National Gay Task Force, about the effort they made to get New York City to withdraw from the producers of *Cruising* the cooperation it ordinarily provides to film makers. The previous directors of N.G.T.F., Bruce Voeller and Jean O'Leary, were outspoken defenders of free speech, even opposing the blacklisting of Anita Bryant. But Brydon and Valeska want to force the makers of films about gays to recognize "the need for our inclusion in the system of industry self-censorship that is now applied to all other minorities." Women Against Pornography says, "We do not advocate censorship," but explains this to mean that "we do not wish to deprive pornographers of their due process rights. We do not advocate the summary closings of businesses that deal in pornography." These statements are reassuring only in suggesting that the word censorship has a bad odor. But they have the same dissemblance that Marc Antony's funeral oration had—praising Caesar while seeming to bury him, arousing the crowd while seeming to placate it. These new censors want to suppress books, magazines and films without the onus of being labeled as censors.

Pinning that label firmly on the new censors is the best way that advocates of free speech can fight back. Like their predecessors, the new censors rationalize their efforts to suppress whatever offends them either by exempting it from constitutionally protected speech or by contending that



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special circumstances warrant exceptions. Such arguments merit no sympathy. Once anyone is empowered to determine what may be expressed or what circumstances warrant suppression, what remains of freedom of speech depends entirely upon the grace with which that power is exercised. Human society has not yet evolved a method of selecting censors who can be counted on to exercise their powers sparingly. And, as those who call for censorship in the name of the oppressed ought to recognize, it is never the oppressed who determine the bounds of censorship. Their power is limited to legitimizing the idea of censorship.

Let us make certain that the new censors are labeled for what they are; that is the best way of impairing their ability to attract adherents to their cause. If suspicion grows that the call for censorship is merely a convenient substitute for a meaningful strategy to combat oppression, a falloff in support might impel the new censors to channel their energies into the real task. It would also allow the advocates of free speech to return to the battle against their traditional foes: those espousing censorship in order to perpetuate privilege and power. □

WHAT THE CONSTITUTION SAYS

A Woman's Guide To Pornography And the Law

WENDY KAMINER

Feminist protests against pornography often seem to posit a choice between the First Amendment rights of a few pornographers and the safety, dignity and independence of all women. Pornography is speech that legitimizes and fosters the physical abuse and sexual repression of women, and censorship appeals to some as a simple matter of self-preservation. A battle line has been drawn between "Feminists" and "First Amendment Absolutists"; the women's movement, which has been a struggle for civil rights and freedom of choice, has suddenly become tainted, in the popular view, with a streak of antilibertarianism.

None of this has been necessary. The bitter debate over pornography and free speech derives from misconceptions on both sides about the methods and goals of the antipornography movement and the practical meaning of First Amendment guarantees of free speech. Feminists need not and should not advocate censorship, but we have every right to organize politically and to protest material that is degrading and dangerous to women.

Women can protest pornography with impunity under the First Amendment as long as they do not invoke or advocate the exercise of government authority. Only the government, by definition, can violate a First Amendment right. A woman who goes as far as "trashing" a porn shop could be convicted of a variety of offenses under the state criminal law and would probably be liable to a civil damage action by the damaged business, but she would not have violated any rights to free speech.

The First Amendment applies to government action at both the state and Federal levels. In practice, the control of obscenity or pornography is usually a matter of state law, although there are Federal statutes prohibiting interstate, international or postal traffic in obscene materials. But official regulation of speech, at any level, is governed by constitutionally mandated rules of legal procedure designed to protect the basic right *to* speak.

The heart of the First Amendment is its procedural safeguards against the imposition of prior restraints on any form of speech. It protects the act of expression, although it may not always protect the substance of what is said. Obscenity may, in principle, be prohibited under state law and is generally treated as a criminal offense. But the government may not restrain or prohibit any material before a judicial determination that it is, in fact, obscene. The government may not, in practice, take any general action, either civil or criminal, against a class of speech; it may only act against an individual utterance *after* it has been proved to fall within an unprotected class or to present an immediate threat to the national security.

The First Amendment works by narrowly proscribing the power of the government to enforce speech-related prohibitions. Its enforcement process is borrowed from the criminal law. All speech is presumed protected until proved otherwise, just as all defendants in criminal cases are presumed innocent until proved guilty. In each case, the government bears a heavy burden of proof, and a conviction of guilt or a finding of obscenity depends on the weight of the evidence. Every instance of speech must be judged individually, on its own merits, before it may be prohibited, just as every criminal defendant must be tried before she may be sentenced.

Obscenity is not, in theory, protected by the First Amendment. In 1957, in *Roth* v. *United States*, the Supreme Court held that obscenity was simply not speech and could be prohibited. But, the practical problems of defining obscenity and separating it from protected speech are overwhelming. The current definition of obscenity was enunciated by the Supreme Court in 1973 in *Miller* v. *California*. It is material "that the average person, applying community standards, would find . . . as a whole, appeals to the prurient interest," material that "depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law" and material that "taken as a whole, lacks serious artistic, political, or scientific value."

Most hard-core pornography would probably be found

Wendy Kaminer is an attorney and an activist in the feminist movement against pornography and violence against women. This article is excerpted from Take Back the Night, *edited by Laura Lederer, which will be published by William Morrow & Company in September.*

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legally obscene under *Miller* and could therefore be prohibited. But effective, generalized enforcement of obscenity laws is not possible without violating the very basic prohibition of prior restraints. As the law stands now, every single book, magazine, or film must be proved to be obscene, in a separate judicial proceeding, before it may be enjoined. This makes it almost impossible for the government to take any generalized action against businesses that regularly deal in pornography. A bookstore selling allegedly obscene material cannot be closed by the state until every book in it has been found obscene, in court. A store with an inventory of 1,000 books cannot be closed because of 50 or 100 or even 500 obscenity convictions. The state could not restrain the sale of remaining or future stock; until it has been proved obscene, it must all be presumed to be protected speech. Broad civil injunctive relief against pornography-related businesses is barred by the prohibition of prior restraints, regardless of the number of underlying obscenity convictions.

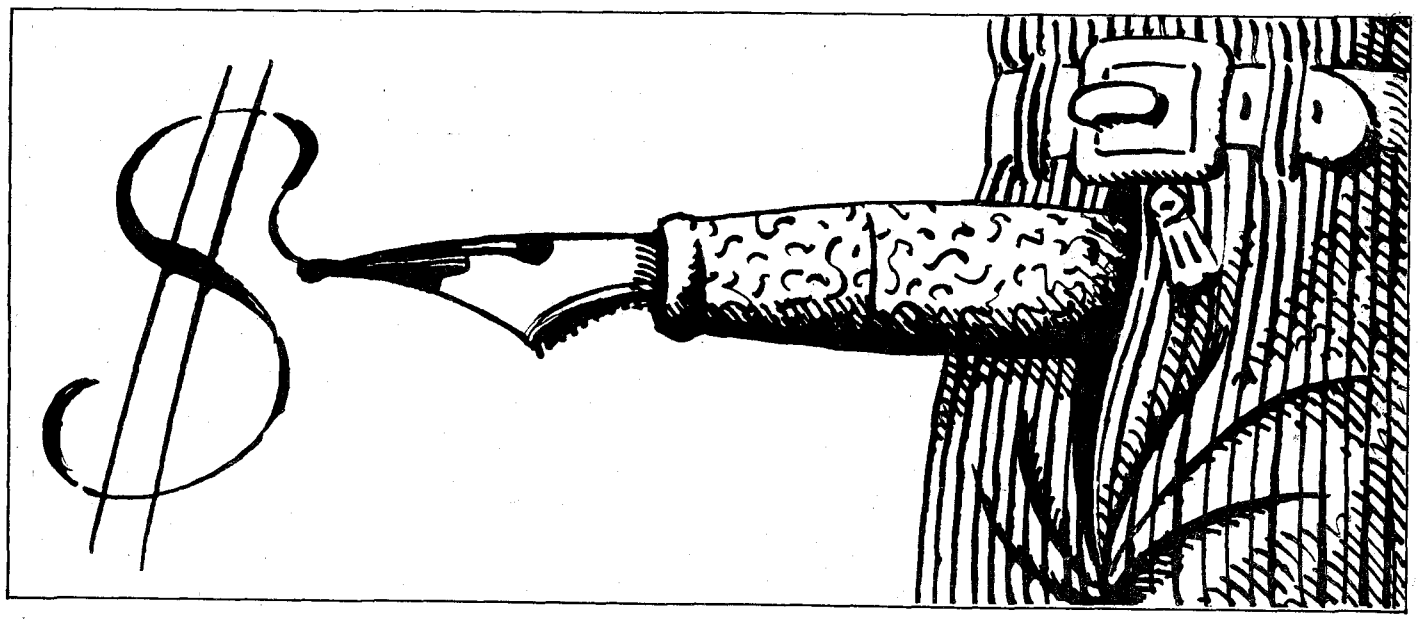
Even individual convictions for obscenity are difficult to obtain, and the process in each case is complicated by First Amendment procedures. The seizure of any allegedly obscene material for use in a pending trial must be based on a narrowly drawn judicial warrant and cannot completely cut off access to the material. Thus, a District Attorney may seize one copy of a book as evidence in a given case, but he cannot prohibit its sale or distribution before a hearing or judicial determination of obscenity. Seizures of material for evidence in obscenity cases must comport with due process requirements under the First Amendment as well as with Fourth Amendment standards for search and seizure. Obscenity prosecutions are long, costly and unpredictable, and are, necessarily, a piecemeal approach to the "problem" of pornography.

The attempt to define and control obscenity simply hasn't worked for feminists or First Amendment lawyers alike. The Court has been struggling with a legal definition for the past twenty years, ever since the current obscenity doctrine was formulated in *Roth*. The definition has undergone relatively minor changes since then, the most important being the shift to local standards of "prurience." In addition, the Court changed the requirement that the work in question be "entirely without redeeming value" to an evaluation of the work "as a whole." These changes have apparently not increased the general number of obscenity prosecutions or the rate of convictions.

Moreover, the current definition of obscenity is conceptually unsound, for it does not set forth a predictable, objective test even for hard-core, sexually explicit material. Instead, it involves a balancing of the social and cultural utility of the material at issue with community standards of prurience. This belies the principle on which it is based: that obscenity can be identified and prohibited.

There is, of course, a good deal of frustration among feminists about ineffective obscenity laws and a natural concern for developing feasible legal alternatives. It has been suggested that pornography could be readily prohibited because it is dangerous and incites violence against women, based on the "clear and present danger" standard traditionally invoked by the Court in free-speech cases. The perception that pornography is dangerous is basic and one that must be impressed upon the public consciousness, but it does not translate so simply into First Amendment law.

The clear and present danger standard would actually afford greater legal protection to pornography than current obscenity laws. It is a strict standard of review, governing the regulation or prohibition of *protected* speech. It is, arguably, sounder constitutional law than the formulation of obscenity as "nonspeech," and it more accurately reflects a feminist view of pornography as dangerous propaganda, but it would substantially restrict government control over obscene material. The clear and present danger standard is more logically invoked in *defense* of pornography. It was, in fact, unsuccessfully raised by the defendant in the *Roth* case. Feminists who urge the adoption of this standard should understand its legal and political implications, otherwise they may find themselves unwittingly on the side of pornographers and First Amendment absolutists.



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The clear and present danger standard describes a very narrow exception to the general restriction of government power over protected First Amendment activity. It was formulated to review instances of official repression of political speech: clear and present danger essentially means an immediate threat to the national security. The standard was first enunciated by the Supreme Court in 1919, after World War I, to allow for prosecutions for antidraft pamphleteering under the Espionage Act; it was used in the early 1950s to uphold convictions for allegedly "subversive" speech under the Smith Act; it has recently been invoked unsuccessfully by the Justice Department in an attempt to restrain the publication of the Pentagon Papers. It is applied in cases in which the government appears as the "aggrieved party," i.e., in its role as guardian of national security. Its use in a pornography case would raise an initial problem of identifying a plaintiff; pornography may be a crime against women, but it is not necessarily a crime against the state.

Adoption of a clear and present danger standard to prohibit pornography would be an implicit admission that it is protected political speech, which would considerably heighten practical problems of proof and enforcement. It is probably easier to prove that a given instance of speech is "obscene" than to prove that it presents "an immediate danger," and the clear and present danger standard imposes a particularly heavy burden of proof on the government. It must demonstrate, in every case, with direct factual evidence, a compelling, even overwhelming, imminent threat to the national security. It is not enough that the speech at issue might be or could be dangerous. In addition, "clear and present danger" does not recognize the cumulative harmful effect of a certain kind of speech. It means a tangible, immediate and specific danger that can be avoided only by suppressing publication.

Sociological studies and expert testimony pointing to a connection between pornography generally and violence against women would not establish a clear and present danger in an individual case, as a matter of law. It might not even be properly admissible as evidence. Use of this sort of generalized evidence to demonstrate that a given instance of speech is dangerous would be like trying a defendant in a criminal case with evidence of "similar" crimes committed by "similar" people. Every instance of speech must always be tried on its own merits; restraints could still be imposed only on specific utterances actually found to present an immediate danger. Moreover, a retreat to a clear and present danger standard and the acceptance of pornography as protected speech would actually strengthen these prohibitions against prior restraints.

The final irony is that in politicizing pornography, feminists are unintentionally signaling a need for a return to a more "permissive" clear and present danger standard in obscenity cases. Pornography is being redefined by women in terms of power, instead of sex and "prurience"; it is being characterized as dangerous political speech. The courts are being asked to weigh the alleged connection of pornography with violence against the underlying right of speech. This is the kind of balancing involved in a clear and present danger case, but, again, it applies to protected speech and presumes the strongest restriction of government authority in accordance with the First Amendment. By framing pornography as political speech, feminists are, in some senses, legitimizing it in ways that First Amendment absolutists never could.

This does not mean that pornography protests are necessarily counterproductive, but it underscores the need to understand fully the legal process in shaping an effective antipornography movement. It makes little sense for feminists to focus on a legal war against pornography or to direct much energy to reformulating obscenity prohibitions.

The primary obstacles to effective legal control of pornography are procedural, not definitional; it's not so much a matter of the standard used to identify unprotected speech in each case, which may change, but the procedures by which they are applied, which must remain constant. We cannot blame the failure of the system to enforce obscenity laws on a dearth of women judges, prosecutors, or jurors, because the problem is not in the way in which pornography is perceived but with the ways in which laws must be enforced. We must understand that procedural safeguards cannot be suspended simply to deal with pornography or any other single class of speech. These procedures are meaningless if not applied in every instance because they are specifically designed to insure a consistent legal process. In First Amendment cases, they also insure the narrow enforcement of laws affecting speech, so as not to infringe upon or deter protected activities. The underlying principle of the First Amendment is that the danger of government having the power to regulate speech and political dissent by a system of prior restraints far outweighs any possible harm that free speech might cause.

We simply cannot look to the government to rid us of pornography; legally, there are no "final solutions." The feminist movement against pornography must remain an antidefamation movement, involved in education, consciousness-raising and the development of private strategies against the industry. We have a crucial role of our own to play in a marketplace in which pornography is flourishing. But it is essential for us to maintain a larger political perspective and a sense of ourselves as one of many competing private interest groups. We can and should speak out and take action against pornographers, because they constitute a hostile group with interests antithetical to our own that threaten our independence and our psychic and physical well-being, but, we cannot ask the Government to speak for us.

Legislative or judicial control of pornography is simply not possible without breaking down the legal principles and procedures that are essential to our own right to speak and, ultimately, our freedom to control our own lives. We must continue to organize against pornography and the degradation and abuse of women, but we cannot ask the government to take up our struggle for us. The power it would assume in order to do so would be far more dangerous to us all than the "power" of pornography. □

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BOOKS & THE ARTS.

Dramatize, Dramatize!

JOSE YGLESIAS

DIARY OF THE CUBAN REVOLUTION. *By Carlos Franqui. Translated by Georgette Felix, Elaine Kerrigan, Phyllis Freeman, Hardie St. Martin. A Seaver Book. The Viking Press. 546 pp. $20 Paper $9.95.*

There is so much to question in Carlos Franqui's book that one is obliged to say immediately that there is no more exciting, revealing or authentic history of the revolt against the Batista regime than it. Let the criticisms come later. First, one must rejoice that Franqui has brought together these letters, documents, interviews, memoirs, and connected them one to the other with what this American edition calls "editor's summaries," to create a six-year chronology (1953 to 1959) of the actions that defeated Fulgencio Batista and initiated the first socialist government in the Americas. There is almost no major revolutionary figure who does not speak directly to the reader, and their voices and stories endow the narrative with an immediacy and fullness that no other book on the Cuban revolution can approximate.

Cuba's revolution is, as many of us know, an extraordinarily exciting adventure; no historical event in the Americas in this century can compare with it, and I envy the new generation that will be reading about it for the first time in Franqui's book. There was in the revolution something of a fairy-tale quality that escapes orderly minds, whether Marxist or liberal or conservative, and Franqui's book, perhaps because it is in love with real people and events richly detailed, never loses touch with the wonder, audacity and bravery of mythic proportions that more abstract accounts seem to acknowledge only perfunctorily. Indeed, the marvel of this book is that it shows us up close how that revolution was made and obviates foolish and pedantic discussions to answer equally foolish and pointless questions: Was Fidel always Red? Franqui allows no distance between the reader and the narration. It is as if he were following in the field of historical writing the Jamesian imperative to fiction writers—dramatize, dramatize, dramatize! Let it be the reader for once who generalizes and draws conclusions.

It is only in the two opening passages of the book that he generalizes at all, and then he does so with the concision and startling leaps one expects only in poetry, hoping to inform the reader less by reasoned argument than by image and tone, the stuff of rhetoric. One of these passages explains his vision of Cuba's historical essence, the other how he came to compile this diary of the revolution. (In them one immediately finds details with which to disagree, but of that later.)

Franqui lives in exile in Italy today and is so little known outside Cuba, except in some intellectual circles in Europe, that it is well to identify him. He is of working-class origin, about ten years older than most of the leaders of the revolution. A political activist from early youth, by the time the fight against Batista began he had already been prominent in the Communist Party and had left it with less than friendly feelings. The experience did not depoliticize him and in time (I skip over much here) he became a leader of the July 26 Movement. He served it on many fronts: in the clandestine organization in Havana, in the exile committee leadership in Miami, in the Sierra Maestra where he established Radio Rebelde, in Havana after Batista fell as editor of its newspaper *Revolución*.

The few jobs his political activities allowed him to hold were on newspapers and he has always had a guerrilla's sense of what makes news—a revolutionary public relations man. He also was perhaps the first Cuban to realize that the tape recorder is an aid to catching history in its flight, and when the revolution triumphed—and even earlier—he began to tape those young men and women, friends of his, who had made it happen. His first collection of their reminiscences, *The Book of the Twelve*, was published here in 1968. He was not simply the propagandist and newspaperman of the revolution, however, he was a leader to whom important decisions were delegated and he was always close to Fidel Castro and the other leaders.

There is almost no turn of events or personality in the Cuban scene about which he does not have intimate knowledge, and he is, therefore, ideal for selecting and giving proper weight to the speeches, newspaper reports and reminiscences that will best tell the history of the revolution. The reader becomes acquainted not just with Fidel, Che and Raul, and with those others like Celia Sánchez, Haydée Santamaría and Camilo Cienfuegos that the better-informed also know, but perhaps for the first time with dozens of others—extraordinary young people (how young they all were!) who gave up their lives without hesitation and ran risks that take one's breath away—Frank País, René Ramos Latour, José Antonio Echeverría, Melba Hernández, Armando Hart, Faure Chomón, Faustino Pérez, Juan Almeida and the Amejeiras brothers.

Take, for example, a five-page account of what could be called "Machadito's Odyssey," the escape from the Presidential palace of José Machado Rodríguez, one of the group from the Student Revolutionary Directorate who in 1957 assaulted the palace to assassinate Batista. Machadito, as he is nicknamed, is wounded in the thigh and miraculously gets away right in downtown Havana and goes through a series of refuges—the first he tries is a church where the priest turns him out—until he gets to friends who spirit him in and out of a hospital for emergency treatment, two steps ahead of the police, and then from one house to another, spending no more than one night in each. Someone arranges for asylum for Machadito in an embassy but the special police catch up with him and a group of his comrades at an apartment hideout; the fate of each as he tries to hide, run for it, or fight it out is a separate, affecting drama. Machadito's bullet-ridden corpse is finally dragged by the hair down the street. So are those of the other young men. The neighbors on balconies and at the windows nearby yell their protests. The narrator of this story, Enrique

Jose Yglesias is the author of In the Fist of the Revolution: Life in a Cuban Country Town *(Pantheon) and* The Franco Years *(Bobbs-Merrill).*

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Rodríguez Loeches, a participant who got away, adds laconically, "A burst of machine-gun fire scared them off."

Franqui has also included himself in the book, and some of his actions are no less hair-raising. It is a pleasure to discover that, excepting the formal, propagandistic dispatches for Radio Rebelde, he is a skillful writer, as engaging in his autobiographical sketch of his peripatetic political career as he is in person. It is a tribute to him that although he has become a bitter opponent of the Cuban revolutionary Government during the last ten years, he has permitted little or none of these feelings to color this account of the period when he fought and suffered heart and soul to bring it to power.

About two matters Franqui was, at the time, critical or, rather, worried, and I daresay that these are the sorts of arguments that Cuban leaders do not like to see advanced unchallenged and which Franqui might well be unable to publish in Cuba today. (There are other documents, too, that would be embarrassing to narrow minds, such as the letter to Che by René Ramos Latour, the courageous leader of the underground in Oriente, beautifully responding to Che's accusation that Ramos is no more than a bourgeois liberal.) Franqui worried that Fidel might turn into a *caudillo* and that the leaders in the Sierra neither appreciated nor understood the extent and importance of the clandestine movement in the cities. As evidence of the former there is a 1957 paper written for the July 26 Movement by Franqui dealing with the problem of *caudillismo* in Latin America; it says at one point, "We hope that Fidel Castro, who is the strongest personality, the most capable and best revolutionary warrior, will be a leader and not a *caudillo* . . . it will depend on whether we can eradicate the past, as well as all its economic, political, social, military, and cultural causes."

In some documents from the Sierra, elsewhere in the book, one catches Fidel irritably complaining about charges of *caudillismo* when he has done no more than demand attention and supplies for the rebel army. Then at the very end of the book—indeed, with its last word—Franqui reverts to this theme again; when summing up the January 1959 events, he states that the general strike was the means of the people's victory, the July 26 Movement the backbone of the triumph and Fidel the "unquestioned *caudillo*." The translators have converted this last phrase to "unquestioned leader," and have inadvertently been, in my opinion, more historically just.

It would take more space than available here to weigh whether Fidel's actions during the insurrectionary period had as an objective his own preeminence or simply the triumph of the July 26 Movement and its radical reform objectives. Certainly in the ten years following the victory, Franqui did nothing that I know of to hem in the personal power of Fidel; indeed, he counted, as did most Cubans then, on Fidel's leadership to keep the revolution on its right course. They still do. It is difficult to suggest to Americans (faced these days with the choice of Carter or Reagan) what effect the brilliant, heroic liberator of the nation has on the democratic process in Cuba—no one can help but let him have his way.

It is ironic that during the ten years that Franqui has emerged abroad as an opponent of the revolution, institutions in Cuba (such as the Communist Party) have been consolidated that *do* limit Fidel's power and clip the wings of some of his best-intentioned fancies. An economist pointed out to me in Havana last winter that Fidel today could not announce in an unprepared speech, as he did when Allende's Government began to suffer economically, that Cubans would be giving up part of their sugar ration to donate it to the Chileans. Fidel simply can no longer cavalierly interfere with economic planning. Which is not to say that he has any trouble convincing anyone about what he would like to see done.

On the issue of the city versus the Sierra, much of the ill feeling of the time is understandable: the Sierra fighters at first had no other source for supplies and weapons, and it was easy to interpret any failures of the urban underground in this regard as neglect. Such an interpretation is to be expected. Indeed, Che in his *Bolivian Diary* complains not only of the urban Bolivian Communists but also of his old Sierra comrades now in Havana. Last December I heard Raul Castro in a speech in Santiago de Cuba call for histories of the urban clandestine activities; he now believes that they have been neglected and that the revolution could not have been won without them. I cite this only as an example that the Cubans in Cuba are as aware of these old issues as Franqui is.

On both these themes (the only controversy Franqui really raises; the publishers' flap copy and publicity releases are another matter) the best evidence in defense of Fidel and the leaders of the July 26 Movement is Franqui's own book. The material on Fidel and on the rebel army is preponderant, although, as I have said, it is a book that introduces, and gives proper weight to, revolutionaries of all affiliations and their activities. The growth of the rebel army from the few survivors of the Granma and its victorious sweep across the island beg for a movie epic in the grand style. And there is no escaping the fact that Fidel "is the strongest personality." Franqui even includes many of the letters he wrote from prison on the Isle of Pines while serving a sentence for the Moncada attack, and Franqui was right: I wanted to read the young Fidel confiding that he had forced himself not to read Maugham's *The Razor's Edge* in one sitting, because he wanted it to last longer. No question about it, Franqui can be accused of acting as publicist for the Sierra and for Fidel.

This American edition has been cut by at least 200 pages and been re-edited and in part restructured. Much has been inevitably lost, but coherence and narrative sequence have been gained. The cutting was done to make the book cheaper to produce, but Jeanette and Richard Seaver are among the few publishers left who will take a chance with valuable books that are not guaranteed to make money for them. This is one of those. It is still a large, rich book for the general reader; the historian can go to the original Spanish which, incidentally, is often bewildering in the way Franqui relegates some entries to small print along the bottom half of page after page, not as footnotes but as if one were being told that this story is not as important as the material in larger type. Four translators were put to work on the American edition and the result includes translatese and punchy Americanese (like Fidel writing to Raul, "I'm so fucking mad at those guys in Maffo that it will be a miracle if I don't shoot them all when they surrender") as well as smooth uncharacterized English. None of it is a real stumbling block.

Unfortunately, the American publish-

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ers, perhaps taken in by Franqui's statement in the introduction that what follows are the words of the revolutionaries "as they spoke then," state that Franqui, whom they call the archivist of the revolution, decided to smuggle these documents abroad since he saw from 1961 on that Fidel had begun "rewriting the Revolution to suit his needs and purposes." One presumes then that this book is meant to thwart Fidel.

The facts are different. In the early 1960s, Fidel signed over the world rights to Feltrinelli, the Italian publishers, for an autobiography he was going to write, and the American publishers who took an option on the unwritten manuscript used me, with the approval of Feltrinelli's representative and the Cubans, as consultant and English translator. I was on call to fly to Havana. Franqui was to draw out the book from Fidel, and Feltrinelli's editor and I were to translate it into Italian and English on the spot, so that all three editions could be published simultaneously.

I never flew to Havana on that mission. Fidel lost interest, and Feltrinelli, who had sold options throughout the world, desperately tried to come up with something to allay the clamor. He issued in bound galleys a concoction of Franqui's which was supposed to be (in diary form) the first half of the autobiography. I was told only a handful of copies existed worldwide and I was not to reproduce it or let it out of my hands. Part of it was spurious: the speech "History Will Absolve Me" of the Moncada trial was, with no warning to the reader, turned into short, dated entries, as if it were a diary of Fidel's. And in it were the wonderful letters from prison and the two taped reminiscences of his childhood and of his youthful adventure in Colombia; not enough, however, to convince foreign publishers that a solid biography was on hand or in the offing.

For quite a while Franqui persisted in believing the autobiography would be done (we talked about it in Havana in 1967) and that he would get Fidel to tape more reminiscences, so that the sort of trickery with the Moncada speech, he said, would not be necessary. He had, of course, taped on his own many of the revolutionaries in 1959 and later, but he was not the archivist of the revolution; Celia Sánchez was, and those archives were put at his and Feltrinelli's disposal for the biography. Though Franqui has written a diary not of Fidel's life but of the revolution, he has yet to abjure his old tricks: passages from Che's *Episodes of the Revolutionary War* appear without attribution to prior publication and without apologies for having condensed and edited the best prose stylist of the revolution.

In fact, this diary has the maddening quality of not explaining at crucial times where and how and when many of the entries were written or taped. More important, Franqui fails to follow up or evaluate many of the stories and differences he reveals: I for one should have much liked to know what Che replied to Ramos Latour's honorable self-defense, and certainly what Fidel and others thought of Franqui's short disquisition on *caudillismo*. Historians will be forced to check much before using this work with assurance.

I tell all this to suggest that rewriting history is what everyone does. I have never understood people who use the word revisionist only in the pejorative. Yes, some Cuban writers in Cuba do rewrite the old stories to make them conform with their prejudices and later political developments. (I own, for example, a book on Radio Rebelde published

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A former editor of *The Nation* and professor at Harvard, Williams College, and Brandeis University, Max Lerner is the author of more than sixteen books, including the bestselling *America as a Civilization*. He writes a syndicated column that appears regularly in newspapers throughout the United States.

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in Havana in 1976 whose author mentions Franqui only once and then in an appendix listing people who worked on it. Next to Franqui's name, in parentheses, appears the word "traitor.") But in terms of the main themes of Franqui's book, Cuban leaders have not disingenuously rewritten history any more than Franqui and his publishers, all honorable persons, have done.

In December 1978, I visited Franqui in Italy (where he lives most modestly) and he told me that Fidel, on reading *Diary of the Cuban Revolution* (then out in Spanish for almost two years), had exclaimed: "I do not want anyone to mention Franqui's name in my presence ever again, but his book is a positive book!" That's a typical Franqui story. One's response to it could even apply to his superb book: you wonder if that's the way it happened and what his source is, but it is charming and has the ring of truth. □

A Very Mixed Bag

DARRYL PINCKNEY

CHANT OF SAINTS: A Gathering of Afro-American Literature, Art and Scholarship. *Edited by Michael S. Harper and Robert B. Stepto. University of Illinois Press. 490 pp. $10.*

The editors of this large anthology, Michael Harper and Robert Stepto, faced a difficult task of selection. No single volume can truly represent the great number of black artists now at work. Yet there is some strain in the description of this volume's purpose: to express "the Afro-American canon," to select "first-rate expressions of varying genres and disciplines that speak to one another and thereby suggest an artistic continuum," to record "major moments in the careers of many of its contributors." Stepto, in his Preface, is careful to avoid the notion that *Chant of Saints* is a document of an era. Nevertheless, the claim he makes of its being "an epic and familial poem," and the comparison John Hope Franklin draws in his Foreword between this book and Alain Locke's landmark anthology, *The New Negro* (1925), are unfortunately inflated. *Chant of Saints*, interesting and serious, resembles, if anything, a swollen *New American Review*.

Much of the material included in this anthology originally appeared in two special issues of *The Massachusetts Review*. Perhaps that explains the uneven quality of the work. The contributions range from deeply engaging to mediocre. The variety of subjects is impressive, and there are a great many contributors. There are selections from the works of seven fiction writers: Ralph Ellison, Gayl Jones, Ernest Gaines, Leon Forrest, James Alan McPherson, Toni Morrison and John Stewart. There are poems by Michael Harper, Robert Hayden, Derek Walcott, Sherley Williams, Jay Wright and Gayl Jones. Included also are extremely illuminating interviews with Ellison, Walcott, Morrison, Jones and Forrest, and a speech by the distinguished poet and scholar, Sterling A. Brown, given on the occasion of his "return" to his alma mater, Williams College, in 1973. (The anthology is dedicated to Professor Brown.) Albert Murray is represented by an article on Duke Ellington's *Music Is My Mistress*. Kimberly Benston has an essay on John Coltrane, and Frederick Turner offers a moving memoir of Jim Robinson, a legendary New Orleans trombonist.

There are several essays on aspects of literature and cultural history: John F. Callahan on Ellison; Wilburn Williams Jr. on Robert Hayden; Sherley Williams on the influence of the blues in contemporary black poetry; Melvin Dixon on Claude McKay, René Maran and Jacques Roumain; Stepto on Richard Wright; Charles T. Davis on Wright's *Black Boy* and Alice Walker on Zora Neale Hurston. (This essay, "Looking for Zora," also appears as the Afterword to a splendid anthology of Hurston's work, *I Love Myself When I Am Laughing*, recently issued by The Feminist Press.) Other essays include Stepto on Harper, Hayden and Jay Wright, and Mary Berry with John Blassingame on the cultural legacy of slavery. One of the most fascinating pieces in this collection is Chinua Achebe's critical evaluation of Conrad's *Heart of Darkness*.

The plastic arts are, happily, also represented in *Chant of Saints*. There are eight half-tone illustrations of Richard Yarde's paintings, gorgeous four-color reproductions of Romare Bearden's "The Odysseus Collages," photographs by Lawrence Sykes, Cal Kowal's photographs of two sculptures by Richard Hunt, an appreciation of Bearden by Ellison and an essay by Robert Farris Thompson on Siras Bowens, the tidewater artist and folklorist of Georgia who created structures from materials such as columns of brick, crooked pine and forked wood.

Just listing what is in the book is exhausting. But it indicates the complex texture of the anthology, the effort to bring together a variety of influences and traditions. Clearly, *Chant of Saints* is an ambitious undertaking. The contributions are arranged to create a flow from one theme to another; arranged so that one selection complements another. However, the sheer density of the anthology is a difficulty, particularly with the essays. Some of them are written in an academic jargon that requires patience and translation, a task that is not always rewarding. This is a major obstacle to the fluidity of tone which the editors hoped to achieve. One wonders if, say, Benston's impenetrable talk of "metaphysical revolt without metaphysical surrender," his talk of "obsessions of the Afro-American Orphic imagination," does any real honor to the genius of Coltrane. In Stepto's "After Modernism" there is much daunting language: "*Invisible Man*'s call, its prefigurement of epilogues to its epilogues (and prologue), is a clarion cry for multiple images and voicings of the Afro-American articulate hero's post-apprenticeship/post-hibernation condition." Stuff like this is hard to take, a sort of Orwellian nightmare of Modern Language Association writing.

Sterling Brown's speech opens the volume. It is not scholarship, it is not criticism, but it is full of wit, intelligence and feeling: a pleasant, if small, example of his learning and generosity of spirit—qualities that have marked his reputation as a teacher for half a century. "These were people from Lincoln University and Howard, and they resented my going to Williams anyway, you know, and me, Ivy League conceited egotist and wearing white flannel britches. They wore those britches out. They beat me up and down the Charles River. They beat me in South Boston,

Darryl Pinckney's essays have appeared in The New York Review of Books, The Village Voice *and elsewhere.*

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Somerville, North Cambridge, Arlington, Boston Common. I died on Boston Common, a death that Crispus Attucks never suffered. I still cannot sit down on my memories of the Boston Massacre." This is an instance of the "lie" —outrageous storytelling—that is part of the folk culture so central to Brown's work.

Six poems by the late Robert Hayden appear in this anthology. They do not equal the dramatic achievement of earlier poems such as "Middle Passage" but two of the poems here, "Elegies for Paradise Valley" and "A Letter From Phillis Wheatley," are compelling. From the latter:

> Idyllic England! Alas, there is
> no Eden without its Serpent. Beneath
> chiming Complaisance I hear him
> hiss;
> I see his flickering tongue
> when foppish would-be Wits
> murmur of the Yankee Pedlar
> and his Cannibal Mockingbird.

William Wilburn Jr.'s accompanying close reading of Hayden's *Angles of Ascent* is informative, concentrating on the union of the symbolist imagination with the obsessions of the historian, on the haunting language and the economy of style.

The two poems by Derek Walcott, "The Star-Apple Kingdom" and "The Schooner *Flight*," are works of an extraordinary and inspiring virtuosity. These poems recently appeared in Walcott's book, *The Star-Apple Kingdom*. It is interesting to look at the changes Walcott made in the poems—"The Schooner *Flight*" is much changed, the title poem only somewhat—and perhaps something in how he works is revealed. These poems are a tidal rush of precise feelings and stunning imagery; the complicated history of Caribbean cultures explodes in the tone.

> I couldn't shake the sea noise out of
> my head,
> the shell of my ears sang Maria
> Concepcion,
> so I start salvage diving with a crazy
> Mick,
> name O'Shaughnessy, and a Limey
> named Head;
> but this Caribbean so choked with the
> dead
> that when I would melt in emerald
> water,
> whose ceiling rippled like a silk tent,
> I saw them corals: brain, fire, sea
> fans,
> dead-men's-fingers, and then, the

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dead men.
I saw that the powdery sand was their bones
ground white from Senegal to San Salvador. . . .

Walcott has some sobering things to say in his interview about writing and culture and race. "If a writer learns from anyone he must learn from a great writer. What black writer can I learn from? . . . Generally, one learns from the great dead." Walcott is one of the most gifted poets in the language.

The fiction included in this anthology demonstrates accomplishment of a high order. It is impossible to discuss each writer at length. However, the interview with Gayl Jones is particularly interesting, given the dramatic originality of her work. (The excerpt, "Almeyda," from a work-in-progress is frustratingly short.) Jones's novels are harsh, bleak, opaque, fiercely concentrated and perfectly told. In the interview she discusses her method of composition, her interest in "blues relationships," her influences, the oral tradition that accounts for her impeccable ear, and her ideas about other black writers. The example of Ralph Ellison is pervasive; he is mentioned, he is interviewed, and then there is his own prose. "Backwacking, A Plea to the Senator" may be from his now legendary work-in-progress.

> *I refer to this new type of sinful activity that has cropped up amongst the niggers. It is known as* "BACKWACKING," *which I am prepared to say under oath is probably one of the most* UNGODLY *and also* UNATURAL *activity that anybody has ever yet invented! Senator, it is no less than* RADICAL! *And so naturally the nigger has been going at it so* HARD *that he is fast getting out of hand and out of control. Here is what he is doing.* HE *and his woman have taken to getting undressed and standing back to back and heel to heel, shoulderblade to shoulderblade, and tale to tale with his against her's and her's against his, and then after they have horsed around and manuvered like cats in heat and worked as tight together as a tick to a cow's tit,* HE *ups and starts in to* HAVING AFTER HER BACKWARDS!

Given the intricate form which Ellison constructed in *Invisible Man*, one is curious as to where this long letter will go in a novel, what it means.

Chinua Achebe's examination of Conrad is based on the contention that *Heart of Darkness* reflects "the desire—one might indeed say the need—in Western psychology to set up Africa as a foil to Europe, a place of negations at once remote and vaguely familiar in comparison with which Europe's own state of spiritual grace will be manifest." Conrad, in Achebe's opinion, is "one of the great stylists of modern fiction," yet his story "projects the image of Africa as 'the other world,' the antithesis of Europe and therefore of civilization, a place where a man's vaunted intelligence and refinement are finally mocked by triumphant bestiality." The Congo is the antithesis of the tranquil Thames. Going up the Congo is like "traveling back to the earliest beginnings of the world." What worries Conrad, Achebe asserts, is "the lurking hint of kinship, of common ancestry. For the Thames, too, 'has been one of the dark places of the earth.' It conquered its darkness, of course, and is now at peace. But if it were to visit its primordial relative, the Congo, it would run the terrible risk of hearing grotesque, suggestive echoes of its own forgotten darkness, and of falling victim to an avenging recrudescence of the mindless frenzy of the first beginning."

Achebe characterizes Conrad's evocation of the African atmosphere as "no more than a steady, ponderous, fake-ritualistic repetition of two sentences, one about silence and the other about frenzy." He offers examples and then refers to F. R. Leavis, who pointed out Conrad's "adjectival insistence upon inexpressible and incomprehensible mystery." Achebe goes on to argue that this is not a mere stylistic flaw but a question of artistic intention, of a willful inducement of hypnotic stupor through the "bombardment of emotive words," all of which is the technique of the "purveyor of comforting myths." Central to the meaning of *Heart of Darkness* is the phrase: "What thrilled you was just the thought of your remote kinship with this wild and passionate uproar. Ugly."

Achebe points out that toward the end of the story, Conrad "lavishes great attention quite unexpectedly on an African woman," which "fulfills a structural requirement of the story; she is a savage counterpart to the refined, European woman with whom the story will end." The difference, for Achebe, "is the one implied in the author's bestowal of human expression to the one and the withholding of it from the other. It is clearly not Conrad's purpose to confer language on the 'rudimentary souls' of Africa." Achebe contends that Conrad gives Africans speech rather than the usual "incomprehensible grunts" only for the purpose of letting "the European glimpse the unspeakable craving" of the African heart.

He does not assent to the interpretation that, for Conrad, Africa is merely a setting for the disintegration of Kurtz's mind. This, to Achebe, is simply one more illustration of the white racism against Africa that always goes "undetected." The conventionally English liberalism of Marlow is merely arrogance in Achebe's view. "Africa as setting and backdrop which eliminates the African as human factor. Africa as a metaphysical battlefield devoid of all recognizable humanity, into which the wandering European enters at his peril. . . . The real question is the dehumanization of Africa and Africans which this age-long attitude has fostered and continues to foster in the world."

For this, Achebe maintains that the story cannot be considered a great work of art. "The time is long overdue for taking a hard look at the work of creative artists who apply their talents . . . to set people against people." Regrettably, Achebe cites Yevtushenko's fatuous notion that a poet cannot be a poet and a slave trader at the same time; that at least Rimbaud had given up poetry by the time he went to Aden and the Harar. "Conrad had a problem with niggers," a "fixation on blackness," an unrelenting obsession. Achebe draws on Conrad's *A Personal Record* and Bernard Meyer's psychoanalytic study. His point is to suggest that Conrad's image of the Congo was "grossly inadequate" at a time when its people were being ravaged by Leopold.

Achebe may be correct about Conrad's racism and no doubt about that of countless others, but he has not allowed for any historical perspective. Every writer lives in his moment. Who doesn't, in his inner life, have trouble with niggers?—if he is white. James Baldwin for instance, in his scathing ridicule of Faulkner's hysterical and comic fear of desegregation, does not deny the brilliance of Faulkner's work. V. S. Naipaul, in an essay on Conrad, acknowledged that Conrad knew many societies "but he knew none in depth." Nevertheless, Kurtz, to Naipaul, does indeed allow himself to become "a savage African god." That was the

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point of the story, passion and abyss, doom. It is, of course, very much a matter of reading and interpretation. But in answer to Achebe's argument, perhaps Naipaul, also familiar with colonialism, would reply that in the Conradian world London is just as much an illusion as the bush along the River Congo. Where Achebe sees nineteenth-century liberal cliché in Conrad's narrator, Naipaul sees in the landscape through which the story passes a foreshadowing of our political panic.

There is much that is worthy of discussion in *Chant of Saints*. Perhaps the volume could have used an index, consistent contributors' notes, a bibliography. There are other quirks too: For example, an excerpt from Toni Morrison's *Sula* is listed in the table of contents. It turns out to be scarcely three paragraphs in length. Perhaps it is intended to illustrate the theme of Morrison's long interview—her sense of place—but it hardly seems worth reprinting it. Michael Harper has eleven poems in this anthology—somewhat injudicious and self-promoting for an editor, given how few poems there are by others—Sherley Williams's one poem is very beautiful—and given how many good artists are not included at all. □

The Unruliness of Law

SANFORD LEVINSON

WOE UNTO YOU, LAWYERS! *By Fred Rodell. Berkley Publishing Corporation. 180 pp. Paper $2.50.*

Woe Unto You, Lawyers!—first published in 1939—represents the furthest reach of the so-called "realist revolution" in American legal education during the 1930s. Like Jerome Frank and Thurmond Arnold, Fred Rodell of the Yale Law School set out to destroy faith in the meaningfulness of something called "the law." To discuss these writers as legal reformers in the traditional sense is to miss the point, for their goal was not so much to establish the humane use of law—the usual thrust of reformist arguments—as to become liberated from law itself. Frank considered that a belief in law was evidence of infantile cravings for a dominant father; for Arnold, law was one of those "symbols of government" that masked the real process of governance. Rodell, who died just two weeks ago, offered instead of an overarching explanatory scheme as to *why* we believe in law, a complete and thoroughgoing attack on the coherence of continuing to do so.

One of the most striking things about Rodell's argument is that it is politically unclassifiable. One suspects that few readers of this magazine are genuinely comfortable reading that "the alleged logic of Constitutional Law is equally amorphous, equally unconvincing, equally silly whether the decisions the Court is handing down are 'good' or 'bad,' 'progressive' or 'reactionary,' 'liberal' or 'illiberal.' " It is one thing to be told that the Burger Court is betraying the Constitution, but it is quite another to be told that the very notion of an understandable Constitution is fallacious, "betrayal" existing only in the eye of the beholder, and nowhere to be found in external reality. It is this later message that Rodell defends with vigor, humor and bite.

One wonders, therefore, which audience will eagerly pick up Rodell's book this time around, for, as implied above, there is much in the book that will provide comfort to contemporary "conservatives." It is, after all, one of the principal arguments of the "neoconservative" movement that we have become a grossly overlegalized society. It is to Nathan Glazer that we owe the term "imperial judiciary" to refer to the alleged propensity of judges to intervene, on the basis of ritualistic (and intellectually indefensible) incantation, in the decisions reached by the regular political process.

Insofar as the defense of such intervention rests on the notion that "the Constitution commands it," Glazer can persuasively quote Rodell to the effect that the Constitution does no such thing. Rodell's one substantive principle of constitutional interpretation is "that any law, state or federal, is entirely proper and valid unless clearly and unmistakably forbidden by the words of the Constitution." There are exceeding-

Sanford Levinson teaches at the University of Texas Law School.

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ly few laws that cannot pass such a test.

Rodell's dedication of this third edition to a "great Justice, great guy, and great friend—Bill Douglas" is evidence that he would scarcely join the neoconservative critique of judicial activism. But the question that haunts most (private) conversations among legal academics is what, if anything, justifies the activism. And the problem, it should be emphasized, is not *Brown* v. *Board of Education*, whose basic result is widely regarded as among the most legally justified of our entire history but more recent cases like *Roe* v. *Wade*, the Supreme Court's abortion decision. Justice Blackmun's opinion attempting to justify that decision has, so far as I am aware, not a single defender in the academic legal community, even among those who support its result; indeed, it is generally viewed as among the shoddiest opinions, intellectually, of the twentieth century. For those of us who approve of legalized abortion, the question is whether it would be possible to write a defensible opinion with the *Roe* result.

What does one do in the meantime, though? One of the remarkable things about American political rhetoric is the extent to which it remains highly legalistic. The notion of "the rule of law" continues to exercise power; it continues as well to provide the foundation of criticism when persons decline to do what Federal judges tell them to. But why? No one who comes even close to agreeing with Rodell can use "rule of law" arguments in good faith, for the very notion depends on the existence of (and ability to understand) a transcendent realm of values and arguments different from those of the specific individuals who happen to be filling judicial office. But the very point of the "realist" enterprise was to destroy the credibility of such an approach.

One can fall back on two other arguments, neither of them very helpful. The first is based on the sheer desirability of the political values being elucidated by judges, whether one assesses the values from the perspective of specific groups being favored or disfavored, or by reference to general notions like the importance of individual autonomy. Abortion can thus be defended as a victory for (some) women or a recognition of autonomy with respect to procreation. But there would be no occasion for this response unless someone were deeply opposed to the values in question and concerned with why he or she must obey them, and the opponent of the abortion decision can cogently point to groups (like fetuses) or values (protecting potential life, commitment even to inconvenient others) that it tends to ignore.

The second argument is more conservative, since it is based on the virtue of stability and fear of the "anarchy" that might result if judicial decrees were not accepted as legitimate. It is hard to imagine most readers of this journal (including myself) making this argument in good faith.

Rodell's own solution to the problem of the assertive or activist judge was to attack not only the authority of "the law" but also that of lawyers. Instead of "adept[s] in the abstract abracadabra of The Law," society should turn to those individuals trained in more socially useful knowledge, especially "technical factual knowledge about the activities out of which the problems arise."

There is, as Judith Shklar pointed out some years ago in her own critique, *Legalism*, little that is politically radical in the work of the realists. There was, for example, little emphasis on class struggle and the ubiquity of conflict. Rodell's cynicism is in fact politically limited. Part of what gives *Woe Unto You, Lawyers!* its gusto is precisely the confidence that law and lawyers can be dispensed with in favor of the capacity of the "average man" and "the experts" to work harmoniously in behalf of a shared, intuitive sense of social justice. As Shklar points out, this version of "realism" shared the most important attribute of traditional law: a desire to escape from politics and its recognition of basic, even irremediable, conflict.

Nevertheless, *Woe Unto You, Lawyers!* remains stimulating, and the Berkley Publishing Corporation is to be commended for bringing out this new paperback edition. It is also good to be reminded of Fred Rodell's iconoclasm and the particular contribution of the Yale Law School in the 1930s and 1940s to questioning some of the givens of American law and legal education. As a recent article in the *National Law Journal* noted, Rodell's most enduring contribution to American life has been the training of a whole generation of legal journalists to write clearly and sensibly

RAIN

"We have a way of making the most extraordinary experience ordinary. We actually work at destroying our miracles. . . ."

—Duane Michaels

You say it as though you really believe it:
Nothing this good can last forever.

I remind you
of the cycles of dandelions,
the ambiguous beauty of the machineel.
You listen but are unconvinced—
"What about the swine flu, the tendency
of mildew to form at the edges of our dreams?"
I turn to the rising of Sirius
and wonder why the Indians would think
to draw such lines in stone.

It begins to rain.
Finally satisfied, you open the umbrella
you bought on the loveliest day of the year,
I am thinking
of the future of cucumbers,
the moments of quiet before morning.
"Hurry," you say, "it looks like
the worst storm we've had in years."

I tell you not to worry—

Nothing this good demands a measure,
Forever is shorter than you ever imagined.

Michael Blumenthal

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about the often Delphic process of the law. But the greatest act of homage one can pay a person like Fred Rodell is vigorous argument rather than sentimental effusion. The merit of *Woe Unto You, Lawyers!* is that, even after forty years, it provides occasion for both reflection and argument. □

FILMS

ROBERT HATCH

The Empire Strikes Back

With the opening of *The Empire Strikes Back*, the sequel to *Star Wars*, George Lucas has disclosed his plans for a galactic epic that rivals, at least in scope, the excursion of the Greeks to Troy. It is to consist of three trilogies, nine full-length movies, of which the first, released as *Star Wars*, is Episode IV, with the individual title of *New Hope. The Empire Strikes Back* is Episode V, to be followed by VI, *The Return of the Jedi*, about three years hence. What the order will be after that is not yet divulged. If the present rate of production is maintained, the project will be completed in a quarter-century or more and will be known to posterity under the generic title of "Star Wars." Space opera on that scale may boggle the mind, but it is no fiscal fantasy. The first film, produced by 20th Century-Fox, made so much money ($410 million gross) that Lucas was able to finance the second out of his own pocket, and it, in turn, has already run up so large an advance that the money for Episode III is virtually assured.

Lucas is serious, not to say solemn, about his enterprise. Talking recently with Aljean Harmetz of *The New York Times*, he said that it "came out of my desire to make a modern fairy tale. . . . Fairy tales are how people learn about good and evil, about how to conduct themselves in society. . . . I was influenced by the 'dragon slayer' genre of fairy tale—the damsel in distress, the evil brothers, the young knight who slays the dragon through his virtue." He says also that the "central core problem of 'Star Wars' hasn't even been stated yet," so we must reserve judgment on Lucas's moral ambitions for his work. However, the assertion that people learn from fairy tales how to conduct themselves in society is rather sweeping, and I am not entirely at ease with a knight of the dragon genre who is being equipped with a "force" that closely resembles omnipotence. Supermen are not my nominees for the role of moral guardians in a modern society.

COMING SOON: "Questions to Tourists Stopped by a Pineapple Field" a poem by W.S. Merwin.

And such issues aside, I see other problems in store for "Star Wars." The first two episodes are without doubt the best space thrillers we have seen. Their special effects are superb (in this respect, the second, directed by Irvin Kershner, but supervised by Lucas, is even more remarkable than the first), their invented worlds are genuinely strange, much of the extraterrestrial scenery is beautiful and the encounters between the evil Empire and the intrepid, freedom-loving rebels are as thrilling—even if their outcomes are as predictable—as the chariot race in *Ben Hur*. Its characters, however, are not enacting a fairy tale, as Lucas would have us believe; they are participants in a soap opera. The dialogue is often absurd, the emotional conflicts are childish, the heroics straight from Frank Merriwell. Fairy tales have grace; this saga has corn.

But, it will be objected, we do not flock by the millions to the "Star Wars" films out of fascination with the cardboard personalities of Luke Skywalker, Darth Vader, Ben Kenobi, the Princess Leia and the rest; we go for the photomagic. And, as said, that is getting even better: in the second installment, the planes fly with greater agility, the mechanicals move about with delightful ease and freedom, the dream worlds are more surprising and more fully realized (though there is nothing as bizarre or satirically funny as the barroom scene in the first film; *The Empire*, in fact, is somewhat wanting in humor). However, the ingenuities of the model makers and the animators are an aspect of film that one takes for granted very quickly. The Millennium Falcon was a marvel to behold the first time it streaked across the void; now it seems no more remarkable than an Army jet. Yoda, Luke's three-foot Jedi master, wonderfully resembles a long-eared prairie dog, but I was less astonished by his appearance than by his speech, which seems to have been compiled from a carton of Chinese fortune cookies. Moreover, I was disconcerted to notice that, with familiarity, I was seeing the instruments of space at their true size: tiny objects as meticulously detailed as those model cars and trucks that are displayed in glass cabinets in the better toy shops.

The Empire Strikes Back is a bridging segment of "Star Wars." Unlike the first film, it is not self-contained; you need to know what has already occurred, and at the end the situation is pretty much up in the air, with Han Solo, Luke's freebooting henchman, in deep freeze and the rebels licking the wounds of their latest victory. Technically speaking, that is as it should be—Pearl White left hanging on a fraying rope—but the trouble is that I don't much care. My fear for Lucas is that long before the nine episodes are completed he will find that he has not provided a sufficiently substantial base for all that fabulous hardware. He has been so preoccupied with the construction of mechanical amazements that he has perhaps forgotten there is more in Homer than epic battles, one-eyed giants, the song of the sirens and the whims of the gods. He lacks a wily Ulysses. □

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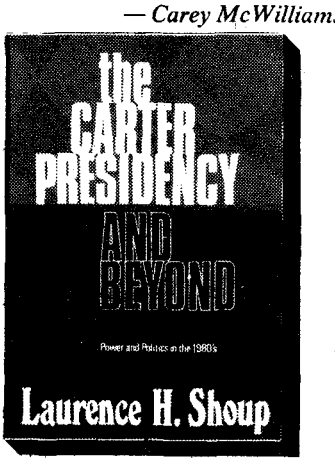

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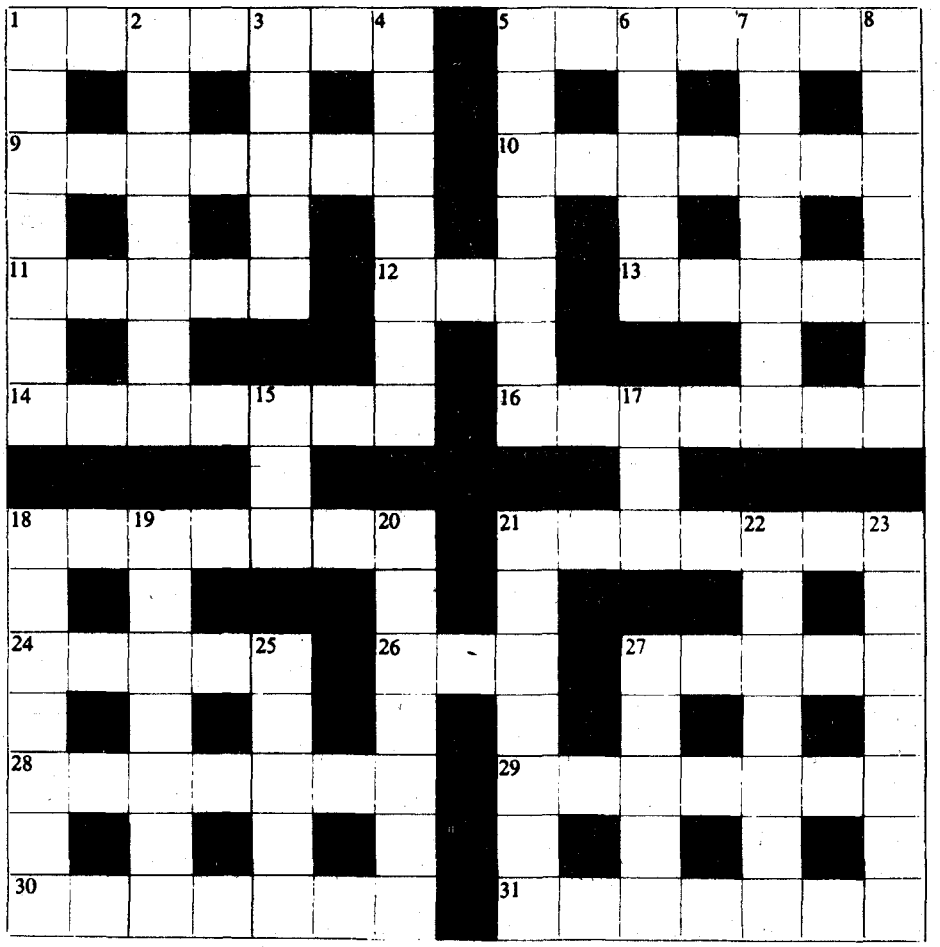
Crossword Puzzle No. 1826

FRANK W. LEWIS



ACROSS

1 and 5 Very pleased with the verdict of the coroner, after a case of spotted fever? (7,2,5)
9 Henry II and Franklin D. were both helped by one. (7)
10 An advocate of the metric system might be an essential to the computer. (7)
11 Is Ben a bad playwright? (5)
12 It might be frightening to get a word of unappreciation. (3)
13 Ultimately paid by the transgressor. (5)
14 Land around a northwestern city. (7)
16 Mis-lays the total, but it's reputedly sweet. (7)
18 Best work it back to what one keeps quiet! (7)
21 In this and many more he makes little ones drop off. (7)
24 This French of mine is the devil to translate! (5)
26 and 15 The offspring of 13 won't work unless regularly beaten. (6)
27 Fletcher's work. (5)
28 A Red let loose, and warned by it. (7)
29 A number with the power to be easily maintained. (7)
30 and 31 Find a suit material and hat here, possibly. (7,7)

DOWN

1 and 18 down Does it prove the inherent danger of bussing? (3,4,2,5)
2 A strain of leaches found especially in Massachusetts. (7)
3 The wire direction possibly could be material. (5)
4 Proving a bad rule, made worse, could be lasting. (7)
5 A topic a cook could use better prepared. (7)
6 There's nothing in a small amount of liquid to make it sink! (5)
7 A support so coming up to the purpose. (7)
8 What one can do with a kazoo and a percussion instrument isn't very exciting! (7)
15 See 26 across
17 The desire for money? (3)
18 See 1 down
19 The particular state of mind with a thing known to painters. (7)
20 A killer in the ring, but something to walk over when on the rocky road. (7)
21 An indication of something, though Tommy's sort is quiet at heart. (7)
22 Spoil Leigh Hunt's dreamer by getting the bird. (7)
23 Can't be found, but presently at this place. (7)
25 Nick used to know the score! (5)
27 Nine queens later than the Good one, so-named, with something added on. (5)

SOLUTION TO PUZZLE NO. 1825

ACROSS: 1 Bedroom; 5 Periwig; 9 Pretend; 10 Patella; 11 Armed; 12 Slow-downs; 15 Embassy; 18 Arc; 20 and 7 down The Wild West; 21 Porters; 26 Lady's maid; 28 Ethyl; 29 Pibroch; 30 Conquer; 31 Exempts; 32 Satchel.
DOWN: 1 By-play; 2 Dreams; 3 Overdrive; 4 Modiste; 5 Papoose; 6 Rated; 8 Glass eye; 13, 14 and 23 Proliferate; 16 Butternut; 17 She; 18 Apple pie; 19 Credible; 22 Slashes; 23 Redacts; 24 Though; 25 Plural; 27 Stoop.

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